

 **Maryland**
**Department of Economic &
Employment Development**

*William Donald Schaefer, Governor
J. Randall Evans, Secretary*

*Board of Appeals
1100 North Eutaw Street
Baltimore, Maryland 21201
Telephone: (301) 333-5032*

*Board of Appeals
Thomas W. Keech, Chairman
Hazel A. Warnick, Associate Member
Donna P. Watts, Associate Member*

— DECISION —

	Decision No.:	1288-BR-91	
	Date:	October 18, 1991	
Claimant:	Merida Hines-Tyler	Appeal No.:	9112809 & 9112810
		S. S. No.:	
Employer:	Naval Academy Athletic Assoc.	L. O. No.:	8
		Appellant:	CLAIMANT

Issue:

Whether the claimant has made a false statement or representation knowing it to be false or has knowingly failed to disclose a material fact to obtain or increase any benefit or other payment, within the meaning of Section 8-809(b) of the Labor and Employment Article; whether the claimant was unemployed within the meaning of Section 8-801.

— NOTICE OF RIGHT OF APPEAL TO COURT —

YOU MAY FILE AN APPEAL FROM THIS DECISION IN ACCORDANCE WITH THE LAWS OF MARYLAND. THE APPEAL MAY BE TAKEN IN PERSON OR THROUGH AN ATTORNEY IN THE CIRCUIT COURT OF BALTIMORE CITY, IF YOU RESIDE IN BALTIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES

November 17, 1991

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

Upon review of the record in this case, the Board of Appeals affirms the decision of the Hearing Examiner with respect to appeal number 9112809 and reverses the decision in case number 9112810.

In case number 9112809, the record shows that the claimant received \$108 in benefits for each of six weeks, the weeks ending April 8, 1989, April 15, April 22, April 29, May 6 and May, 13, 1989. During the first week, the claimant worked and earned \$65. During the next five weeks, the claimant earned \$323. Clearly, the claimant was eligible for only a partial check in the first week, and for nothing in the next five weeks. She is thus overpaid \$570 (five times \$108, plus \$30 [\$65 earnings less \$35 disregard]).

In case number 9112810, the issue is whether the claimant knowingly submitted a false statement in order to obtain or increase benefits under this article. There is insufficient evidence that the claimant submitted a false statement, much less knowingly submitted such a statement.

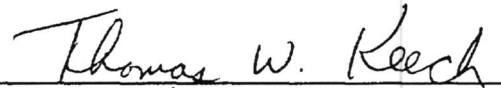
The Hearing Examiner inferred from the fact that the claimant was paid that she must have submitted false claim cards to receive that payment. This is inferring too much from too little. There is no direct evidence whatsoever that the claimant submitted a false statement. A finding that the claimant committed a fraudulent act. based solely on the fact that the benefit payment system paid her claims, is inappropriate.

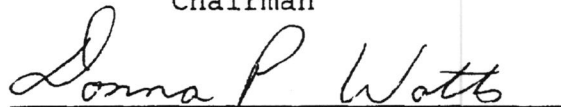
DECISION

In case number 9112809. the claimant was not unemployed for the weeks ending April 8, 1989 through May 13, 1989. She is overpaid benefits in the amount of \$570 for that time period, under Section 8-809(a)(1) of the Labor and Employment Article.

In case number 9112810, the claimant did not knowingly make a false statement to obtain or increase benefits. No penalty is imposed under Section 8-809(b) of the Code.

The decision of the Hearing Examiner is affirmed in part and reversed in part.


Chairman


Associate Member

K:W
kbm

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CLAIMANT
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UNEMPLOYMENT INSURANCE - ANNAPOLIS
Recoveries - Room 413

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
J. Randall Evans, Secretary

William R. Merriman, Chief Hearing Examiner
Louis Wm. Steinwedel, Deputy Hearing Examiner

1100 North Eutaw Street
Baltimore, Maryland 21201

Telephone: 333-5040

— DECISION —

	Date:	Mailed 8/20/91
Claimant:	Merida Hines-Tyler	Appeal No.: 9112809 & 918210
	S. S. No.:	
Employer:	Naval Academy Athletic Association	L. O. No.: 08
	Appellant:	Claimant
Issue:	Whether the claimant was overpaid benefits within the meaning of Section 17(d) of the Law. Whether the claimant made a false statement to obtain or increase benefits under Section 17 (e) of the Law. Whether the claimant was unemployed within the meaning of Section 20 (1) of the Law.	

— NOTICE OF RIGHT TO PETITION FOR REVIEW —

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A REVIEW AND SUCH PETITION FOR REVIEW MAY BE FILED IN ANY OFFICE OF THE DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT, OR WITH THE APPEALS DIVISION, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL.

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON **September 4, 1991**

— APPEARANCES —

FOR THE CLAIMANT:

Present

LOCAL OFFICE REPRESENTATIVE:
Gary Moore

Appeal Numbers 9112809 and 9112810 were consolidated for purposes of the hearing and the decision.

FINDINGS OF FACT

The claimant filed a claim for unemployment insurance benefits

FOR THE EMPLOYER:

Represented by Mike Bobinski, Business Manager

which was effective November 13, 1988, establishing a weekly benefit amount of \$108.00.

Agency records indicate that the claimant filed a claim for weekly benefits for each of the following week ending dates: April 8, 15, 22, 29, May 6 and 13, 1989. The claimant was paid \$108.00 for each of these weeks from the Agency.

Records from the Naval Academy Athletic Association indicate that the claimant began working for this employer on April 7, 1989 and worked continuously until June 16, 1989. During the week ending April 8, 1989, the claimant received gross earnings of \$64.57. During the week ending April 15, 1989, the claimant received \$322.84 in gross wages. She received this same amount, \$322.84, from the employer for each of the following week ending dates, April 22, 29, May 6 and 13, 1989.

The claimant thinks that she disclosed her earnings. However, she also indicates that she was paid hi-monthly and may have been unaware of what her earnings would have been at the time she filed each claim card.

CONCLUSIONS OF LAW

The claimant was not unemployed within the meaning of Section 20 (1) of the Law at the time that she filed for benefits. Rather, during the weeks in question that she filed a claim card, she was working on a full-time basis for the employer.

It is also concluded that the claimant knowingly failed to disclose a material fact in order to obtain or increase unemployment insurance benefits. While the claimant contends that she disclosed her earnings, the claimant would not have been paid her full weekly benefit amount for any of the weeks that she filed claim cards for if she had, in fact, disclosed these earnings. The Law provides that if a claimant earns in excess of her weekly benefit amount for any particular week, not only will the claimant not receive any benefits from the Unemployment Insurance Agency, but her claim would have been terminated during any week that she earned in excess of her weekly benefit amount and subsequent claim cards would not have been sent to the claimant, unless or until she reopened her claim. Therefore, it goes without saying that the claimant failed to disclose any of her earnings.

With respect to both appeal numbers 9112809 and 9112810, the determination of the Claims Examiner will be affirmed.

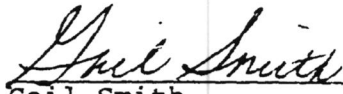
DECISION

With respect to Appeal #9112809: The claimant was not unemployed within the meaning of Section 20 (1) of the Maryland Unemployment Insurance Law. Benefits are denied from April 9, 1989 until May 13, 1989.

The determination of the Claims Examiner is affirmed.

With respect to Appeal #9112810: The claimant knowingly failed to disclose a material fact, in order to obtain or increase benefits within the meaning of Section 17 (e) of the Maryland Unemployment Insurance Law. Benefits are denied from July 16, 1991 until July 13, 1992.

The determination of the Claims Examiner is affirmed.


Gail Smith
Hearing Examiner

NOTE : This decision does not preclude the Department Economic and Employment Development from instituting civil or criminal action against the claimant under the provisions of Section 17(e) of the Maryland Unemployment Insurance Law.

Date of Hearing: 8/15/91
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Specialist ID: 80812

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Claimant
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Unemployment Insurance - Annapolis (MABS)
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