



# 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.:                    | 1349 -BR-91                      |
| Date:                            | October 30, 1991                 |
| Claimant: Nuha Taweel            | Appeal No.: 9110631 &<br>9110632 |
|                                  | S. S. No.:                       |
| Employer: Columbia Union College | L. O. No.: 43                    |
|                                  | Appellant: CLAIMANT              |

Issue: Whether the claimant filed proper claims for benefits within the meaning of Section 8-901; whether the claimant was unemployed during a customary vacation period, within the meaning of Section 8-909(c) of the Labor and Employment Article.

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**— 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 BALIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES November 29, 1991

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**— 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 regard to Section 8-901 of the Labor and Employment Article (formerly

Section 4(b) of the Maryland Unemployment Insurance Law) but reverses the decision with regard to Section 8-909(c) of the Labor and Employment Article (formerly Section 4(f)(5) of the Maryland Unemployment Insurance Law).

The Board agrees that the claimant had a reasonable assurance of returning to work with Columbia Union College on June 26, 1991. However, the period of time she was unemployed was not "during a customary and established holiday recess or vacation period," as required by Section 8-909(c).

The claimant testified that she usually worked during the summer months, approximately four hours per day. This was the first summer in four years that she had no work for a substantial period of time. Further, Agency Exhibit #3, a letter from the Columbia Union College, supports the claimant's testimony that she was laid off. In that letter, the employer admits that the claimant was temporarily laid off from May 10 to June 26, 1991, due to a lack of work and that this action had been taken only after "the Board of Trustees studied the current and projected enrollment and financial data and concluded that a reduction in several faculty/staff positions was necessary." Therefore, the Board concludes that this was a period of a layoff and not a customary recess or vacation period for the claimant.

#### DECISION

With respect to Appeal #9110631, the claimant is not disqualified from the receipt of benefits for the week beginning May 12, 1991, within the meaning of Section 8-909(c) of the Labor and Employment Article (formerly Section 4(f)(5)).

The decision of the Hearing Examiner is reversed.

With respect to Appeal #9110632, the claimant failed to file claims for benefits in a timely and proper manner, within the meaning of Section 8-901 of the Labor and Employment Article (formerly Section 4(b)). Benefits are denied for the week beginning May 19, 1991 until June 15, 1991.

The decision of the Hearing Examiner is affirmed.

  
\_\_\_\_\_  
Associate Member

  
\_\_\_\_\_  
Chairman

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - WHEATON

 **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*

— D E C I S I O N —

Date: Mailed: 7/23/91  
Appeal No.: 9110631 & 9110632  
S. S. No.:  
Claimant: Nuha B. Tawell  
Employer: Columbia Union College  
L. O. No.: 43  
Appellant: Claimant

Issue:

Whether the claimant failed to file proper claims for benefits within the meaning of Section 4(b) of the Law.  
Whether the claimant was unemployed during a customary vacation period, within the meaning of Section 4(f)(5) 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

8/7/91

— A P P E A R A N C E S —

FOR THE CLAIMANT:

Claimant-Present  
Bissara Tawell, Witness

FOR THE EMPLOYER:

Not Represented

Other: Janet Wisniewski,  
Claims Specialist  
Dept. of Economic and  
Employment Development

FINDINGS OF FACT

With respect to Appeal No: 9110532, the claimant filed an

Original claim for unemployment insurance benefits establishing a benefit year effective May 12, 1991, with a weekly benefit amount of \$193. The testimony disclosed that the claimant filed an initial claim form for the week ending May 18, 1991, in the local office. Thereafter, the computer records of the Agency indicate that on May 20, 1991, a subsequent claim card for the weeks ending May 25, and June 1, 1991, was mailed to the claimant. The claimant contends that she never received this claim card in the mail. She has not moved her address however since she first filed for benefits. Even though she never received a copy of the claim card in the mail, she did not visit the local office in order to file a duplicate claim. She did appear in response to an appointment notice on June 17, 1991. She received a copy of the Unemployment Insurance pamphlet. Because she failed to return the claim card for the weeks ending May 25, and June 1, 1991, a subsequent claim card for the weeks ending June 8, and June 15, 1991, was not issued on her behalf.

With respect to Appeal No. 9110631, the claimant has worked approximately four years for the employer which is an educational institution. She provides food service for the college. Every year the employer has somewhat of a reduction in force, but has always managed to give the claimant approximately four hours of work a day. However, this year the work was completely eliminated from May 10, 1991, until June 26, 1991. The claimant last worked on May 9, 1991. She did return to work on June 26, 1991. She was clearly advised at the time of layoff that she would be returning to work on June 26, 1991.

#### CONCLUSIONS OF LAW

Article 95A, Section 4(b) provides that an unemployed individual is eligible to receive benefits only if it is established that he/she has filed claims in accordance with relevant provisions of the Code of Maryland Regulations (COMAR).

COMAR - Title 24, subsection 02.02.03D provides, in essence, that a claimant shall open his/her initial claim in person and thereafter file claims only by mail on claim certification forms as issued. In order for the claim to be valid, these forms must be mailed promptly as indicated on the claim certification form.

The above cited portions of the Law and COMAR are specific in their provisions and claims must be filed in accordance with these provisions if benefits are to be paid for the claim period at issue.

In this case, the records of the Agency clearly indicate that a

claim card was issued to the claimant on May 20, 1991, for the weeks ending May 25, 1991, and June 1, 1991. However, even giving the claimant the benefit of doubt that the claimant never received this claim card in the mail, the claimant, thereafter, failed to comply with the Agency's rules and regulations by visiting the local office immediately for purposes of filing a duplicate claim. The claimant received a copy of the Unemployment Insurance rm.mhlet which communicates this retirement to the claimant. The claimant was also advised of this requirement at the time she filed for benefits. Therefore, the determination of the Claims Examiner will be affirmed.

The claimant was employed on behalf of an educational institution performing services in a capacity other than an instructional, research or principal administrative capacity. As such, she cannot be paid benefits based on such service during any week of unemployment that begins during an established and customary vacation period or holiday recess if there is a reasonable assurance that the individual will perform the service in the period immediately following a vacation period or recess. In this case, the claimant was clearly given a reasonable assurance that she would be returning after the vacation or holiday recess and she did so return. Therefore, the determination of the Claims Examiner will be affirmed.

DECISION

With respect to Appeal No: 9110531,

The claimant was employed with an educational institution and was given a reasonable assurance that she would return to work immediately after a vacation or holiday period and therefore, pursuant to Section 4(f)(5) of the Maryland Unemployment Insurance Law, benefits are denied, for the week beginning May 12, 1991, and until meeting the requirements of the Law.

With respect to Appeal No: 9110632,

It is held that the claimant failed to file claims for benefits in a timely and proper manner, within the meaning of Section 4(b) of the Maryland Unemployment Insurance Law. Benefits are denied for the week beginning May 19, 1991 until June 15, 1991.

The determinations of the Claims Examiner are affirmed.

  
\_\_\_\_\_  
Gail Smith  
Hearing Examiner

Date of hearing: 7/18/91  
rc/Specialist ID: 43722  
Cassette Number (7092)  
Copies mailed on 7/23/91 to:

Claimant  
Unemployment Insurance - Wheaton - MABS