



**DEPARTMENT OF EMPLOYMENT AND TRAINING**

**STATE OF MARYLAND**  
HARRY HUGHES  
Governor

**BOARD OF APPEALS**  
1100 NORTH EUTAW STREET  
BALTIMORE, MARYLAND 21201  
(301) 383-5032

**BOARD OF APPEALS**  
THOMAS W. KEECH  
Chairman  
HAZEL A. WARNICK  
MAURICE E. DILL  
Associate Members  
SEVERN E. LANIER  
Appeals Counsel  
MARK R. WOLF  
Chief Hearing Examiner

**— DECISION —**

Decision No.: 543-BH-85

Date: July 22, 1985

Claimant: Cynthia M. Chambers

Appeal No.: 06180

S. S. No.:

Employer: Baltimore City Dept.  
of Housing,

L.O. No.: 1

Appellant: Employer

**Issue:** Whether the claimant has earned the qualifying amount of wages after the beginning of a prior benefit year within the meaning of §4(e) of the law and whether the employer failed, without good cause, to file a timely and valid appeal within the meaning of §7(c) (ii) of the law.

---

**— NOTICE OF RIGHT OF APPEAL TO COURT —**

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

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON August 21, 1985

---

**— APPEARANCES —**

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Cynthia M. Chambers - Claimant  
Garth Corbett - Legal Aid Bureau, Inc.

Charlie Spinner -  
Personnel Tech.  
Evelyn Parnell -  
Office Assistant

## EVALUATION OF THE EVIDENCE

The Board of Appeals has considered all of the evidence presented, including the testimony offered at the hearings. The Board has also considered all of the documentary evidence introduced in this case, as well as the Department of Employment & Training's documents in the appeal file.

## FINDINGS OF FACT

The claimant was employed by the Baltimore City Department of Housing until on or about June or July 1983. She subsequently filed for unemployment insurance benefits with a benefit year beginning July 31, 1983. Based on the information supplied to the agency by both the claimant and the employer, the claimant was found to be eligible for unemployment insurance benefits.

A monetary determination of eligibility finding the claimant eligible for \$144.00 per week in benefits was made and mailed to the claimant on or about August 5, 1983. The last date to protest that determination was August 20, 1983. A copy of this determination was not mailed to the employer, in accord with standard agency practice. However, the wages listed on the monetary eligibility were based on figures submitted by the employer to the agency.

On or about April 17, 1984, a non-monetary determination was issued in this case for the first time, finding that the claimant was not disqualified for benefits based on the reasons for her separation from the employer. The last date to file an appeal to this determination was May 2, 1984. The employer filed a timely protest to this determination on April 30, 1984. Meanwhile, on or about May 9, 1984, the employer, for the first time, became aware of the monetary determination and realized that it was based on sick wages paid to the claimant by the employer which, according to the employer, should not have been included as part of the covered wages in determining the claimant's weekly benefit amount. This error occurred as a result of an error in the employer's computer.

The employer attempted to raise the issue of the claimant's monetary eligibility at a hearing scheduled on the employer's appeal of the non-monetary determination on May 29, 1984. At that time the employer was told that what they should have filed was an appeal to the monetary determination and that that hearing was not the proper place to raise that issue. On the advice of the Appeals Referee the employer therefore voluntarily withdrew their request for an appeal on the non-monetary determination on May 29, 1984 and at the same time filed an appeal to the monetary determination. However, since the last date to file an appeal to the monetary determination was August 20, 1983, at a subsequent hearing on this case a different Appeals Referee

determined that the employer had failed to file a timely appeal without good cause to the monetary determination and therefore the employer's protest was denied under §7(c) (ii) of the law. It is that Appeals Referee's decision that the employer appealed to the Board.

#### CONCLUSIONS OF LAW

The question before the Board in this case, is whether the employer had good cause to file a late appeal to the monetary determination. The Board of Appeals has ruled in many decisions, Starting with Leftwich, 140-BH-83 that a monetary (as well as non-monetary) determination is final 15 days from when it was issue, pursuant to §7(c) (ii) of the law and that §17(d) does not authorize the agency to go back and redetermine cases that are final, except in certain instances, such as where a clerical error has occurred or where the party attempting to file the late appeal did not receive proper notice.

The evidence in this case shows that the original error, which the employer is now attempting to correct (if it is an error and the Board is not reaching that question at this time) was made by the employer in this case. Whether it was a clerical error is not completely clear but the Board need not reach that issue because the Board concludes that the employer has good cause because it never received proper notice of the monetary determination in the first place.

The employer is in a catch-22 situation. On the one hand the employer did not receive notice of the monetary determination. Yet on the other hand, when the employer finally found out about it (and only after filing a timely appeal to the non-monetary determination), the employer was told it was too late to appeal. This is obviously unfair and a denial of the employer's due process. The Board notes that the employer here is in a different situation from the employer in a prior Board decision, Munday v. Baltimore County Office of Personnel, 287-BH-84, where not only did the employer initially supply the incorrect information, but where also it failed to file an appeal even long after it had knowledge of the incorrect monetary determination. In this case, the employer acted as soon as it had notice or information of the monetary determination.

Since the Board does not have before it, or in the record, sufficient information upon which to make a decision on the merits of this case, this case will be remanded back to the local office for a new monetary determination. Such determination, and any determination of overpayment by the claimant resulting from this will of course be appealable to the Appeals Division.

DECISION

The employer had good cause for filing a late appeal within the meaning of §7(c) (ii) of the Maryland Unemployment Insurance Law.

The question of whether the claimant had earned the qualifying amount of wages within the meaning of §4(e) of the law is remanded back to the local office for a new determination in accord with this decision.

The decision of the Appeals Referee is reversed and remanded.

  
Associate Member

  
Associate Member

W:D

kmb

DATE OF HEARING: December 11, 1984

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Garth Corbett, Esquire

UNEMPLOYMENT INSURANCE - BALTIMORE



**DEPARTMENT OF EMPLOYMENT AND TRAINING**

**STATE OF MARYLAND  
1100 NORTH EUTAW STREET  
BALTIMORE, MARYLAND 21201**

**STATE OF MARYLAND  
HARRY HUGHES  
Governor**

**(301) 383-5040**

**BOARD OF APPEALS**

**THOMAS W. KEECH  
Chairman**

**HAZEL A. WARNICK  
MAURICE E. DILL  
Associate Members**

**SEVERN E. LANIER  
Appeals Counsel**

**MARK R. WOLF  
Chief Hearing Examiner**

**— DECISION —**

Claimant: Cynthia M. Chambers  
Date: July 6, 1984  
Appeal No.: 06180-EP  
S. S. No.:

Employer: Baltimore City Department of Housing L.O. No.: 1  
Appellant: EMPLOYER

Issue: Whether the claimant has earned the qualifying amount of wages after the beginning of a prior benefit year within the meaning of Section 4 (e) of the Law.  
Whether the appealing party filed a timely appeal or had good cause for an appeal filed late within the meaning of Section 7 (c)(ii) 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 EMPLOYMENT SECURITY OFFICE, 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 July 23, 1984

**— APPEARANCES —**

FOR THE CLAIMANT:

Present - Represented by Garth Corbett, Staff Attorney - Legal Aid Bureau, Incorporated

FOR THE EMPLOYER:

Represented by Charles Spinner, Personnel Technician Supervisor; and Evelyn Parnell, Office Assistant III

**FINDINGS OF FACT**

Form ESA-212, the Monetary Determination of Department of Employment and Training, determining the claimant eligible for \$144.00 in weekly benefits monetarily, was mailed to the claimant on or about August 5, 1983. The determination specifically stated that any protest or appeal must be filed no later than August 20,

1983. The employer's appeal was filed May 29, 1984, last date for filing an appeal or protest being August 20, 1983. The employer was not made aware of the determination until June 9, 1984. The employer is not ordinarily entitled to notice of a monetary determination.

CONCLUSIONS OF LAW

Within the meaning of Section 7 (c)(ii) of the Maryland Unemployment Insurance Law, a determination shall be deemed final unless a party entitled to notice thereof files an appeal within fifteen days after the notice was mailed to his last known address, or otherwise delivered to him; provided, that such period may be extended by the Board of Appeals for good cause. In the instant appeal, the employer has not demonstrated good cause to the Appeals Referee for having filed a late appeal. The Appeals Referee also questions whether an employer has legal standing to protest a monetary determination. It is for this reasons the monetary determination of the Department of Employment and Training must stand.

DECISION

The employer failed, without good cause, to file a timely appeal within the meaning of Section 7 (c)(ii) of the Law.

The monetary determination of the Department of Employment and Training stands.

The employer's protest is denied..

  
Gerald L. Askin  
APPEALS REFEREE

Date of Hearing - 6/29/84  
cd/1627  
(4653/?)

COPIES MAILED TO:

Claimant  
Employer  
Unemployment Insurance - Baltimore  
  
Legal Aid Bureau, Incorporated