



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.:	359-BH-90
	Date:	April 9, 1990
Claimant: Johnnie L. Brown	Appeal No.:	8915882
	S. S. No.:	
Employer: Tire-Riffic, Inc.	L. O. No.:	1
	Appellant:	CLAIMANT

Issue: Whether the claimant made a false statement or representation knowing it to be false, or knowingly failed to disclose a material fact to obtain or increase any benefit or other payment, within the meaning of Section 17(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)(3) 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 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 AT MIDNIGHT ON

May 9, 1990

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Johnnie Brown, Claimant

Jo Ann Brown, Pers.
Manager

John T. McGucken, Legal Counsel, D.E.E.D.

Marcel Hayes, D.E.E.D.

EVALUATION OF 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 Economic and Employment Development's documents in the appeal file.

FINDINGS OF FACT

As to the issue of whether or not the appealing party filed a timely appeal or had good cause for an appeal filed late within the meaning of Section 7(c)(3) of the law, the Board finds the following facts.

The claimant receives his mail at 2864 West Lanvale Street, Baltimore, Maryland 21216. This is the home of a friend of the claimant. The claimant did not receive the Benefit Determination of August 17, 1989 advising him of the Claims Examiner's determination that he had committed a fraudulent act within the meaning of Section 17(e) of the law.

As to the issue of whether or not the claimant has made a false statement or representation knowing it to be false, or knowingly failed to disclose a material fact to obtain or increase any benefit or other payment, within the meaning of Section 17(e) of the law, the Board makes the following findings of fact.

The claimant was employed for Tire-Riffic, Inc. from June 7, 1988 until March 16, 1989. During the time that the claimant was employed with Tire-Riffic, he filed claim certificates and received unemployment benefits from the week of July 2, 1988 through November 12, 1988. The claimant also received an unemployment check for one week in March of 1989.

During the time that the claimant filed claim certificates for benefits, he failed to report that he was working and the amount of money that he was in fact earning. The claimant collected full benefits. No deductions were made based on the salary that he was earning.

CONCLUSIONS OF LAW

The facts of this case and the documents presented by the agency clearly establish that the claimant knowingly made false statements and knowingly failed to disclose material facts in order to obtain benefits to which he was not entitled within the meaning of Section 17(e) of the law.

The claimant was working during the time he filed claim cards and received full benefits.

DECISION

The claimant filed a timely appeal or had good cause for an appeal filed late, within the meaning of Section 7(c)(3) of the Maryland Unemployment Insurance Law.

The decision of the Hearing Examiner is reversed.

The claimant has made false representations, knowing them to be false, in order to obtain benefits, within the meaning of Section 17(e) of the law. Benefits are denied from August 17, 1989 through August 15, 1990. In addition, the claimant shall repay to the agency a sum equal to all of the benefits received by or paid to him for each week with respect to which the false representations were made. This includes all weeks from the week ending July 2, 1988 through the week ending November 12, 1988.

The decision of the Hearing Examiner is reversed.

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



Associate Member



Associate Member



Chairman

DW:W:K

kbm

Date of Hearing: April 3, 1990

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CLAIMANT
UNEMPLOYMENT INSURANCE - BALTIMORE

EMPLOYER
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

— D E C I S I O N —

Mailed: 1/19/90

Claimant: Johnnie L. Brown

Date:
Appeal No.: 8915882

S. S. No.:

Employer: Tire-Riffic; Inc.

LO. No.: 1

Appellant: Claimant

Issue: Whether the claimant has made a false statement or representation knowing it to be false or to have knowingly failed to disclose a material fact to obtain or increase any benefit or other payment, within the meaning of Section 17(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)(3) 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

2/5/90

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON

— A P P E A R A N C E S —

FOR THE CLAIMANT:

Claimant-Present

FOR THE EMPLOYER:

Not Represented

FINDINGS OF FACT

A benefit determination mailed to the parties provides that the last day to file a timely appeal was September 1, 1989.

In this case, the appeal was filed in person by the claimant on December 21, 1989.

The appellant offers as a reason for late appeal that he did not receive the Notice of Benefit Determination dated August 17, 1989, advising him of the determination of the Claims Examiner that he had committed a fraudulent act, within the meaning of Section 17(e) of the Law.

The claimant did, however, receive a Notice of Benefit overpayment on approximately July 5, 1989. This Notice advised him that he had been determined to have received unemployment insurance benefits to which he was not entitled, and further advised that there was the possibility of a determination that he fraudulently received these benefits under Section 17(e). The claimant apparently in connection with that notice has had several conversations with the overpayment Recoveries Unit and has reached an agreement to repay benefits out of later benefits. There is in the file information from Tire-Riffic, Inc. showing the claimant received wages during weeks from July through September 1988. There is no evidence that he received unemployment insurance benefits during that period.

CONCLUSIONS OF LAW

In Premick v. Roper Eastern (141-BR-83), the Board of Appeals conferred upon the Appeals Division its own jurisdiction granted pursuant to Article 95A, Section 7(c)(3) to rule upon the issue of timeliness of appeal as well as the issue of good cause in the filing of a late appeal. In the instant case, the evidence will support a conclusion that the appellant filed a late appeal for reasons which do not constitute good cause under the provisions of Article 95A, Section 7(c)(3) and legal precedent construing that action.

The claimant had in his possession in early July 1989, notice that he was being asked to repay benefits. Reasonable inquiry would have allowed him to determine the basis of that claimed overpayment.

DECISION

It is held that the appellant did not file a valid and timely appeal within the meaning and intent of Article 95A, Section 7(c)(3).

The determination of the Claims Examiner and any disqualification applied, remains effective and unchanged.


Henry M. Rutledge
Hearing Examiner

NOTE : "This decision does not preclude the Department of 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: 1/10/90

(103)-Specialist ID:80819

Copies mailed on 1/19/90 to:

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