

# DLLR

STATE OF MARYLAND  
DEPARTMENT OF LABOR, LICENSING AND REGULATION

Board of Appeals  
Hazel A. Warnick, Chairperson

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## - DECISION -

Claimant:

BONNIE S. WILLIAMS

Decision No.: 00952-BR-99

Date: April 9, 1999

Appeal No.: 9900377

S.S. No.:

Employer:

DEPARTMENT OF THE INTERIOR

L.O. No.: 04

Appellant: Employer

Issue: Whether the claimant was discharged for misconduct or gross misconduct connected with the work within the meaning of Maryland Code, Labor and Employment Article, Title 8, Section 8-1002 or 1003.

## - NOTICE OF RIGHT OF APPEAL TO COURT -

You may file an appeal from this decision in the Circuit Court for Baltimore City or one of the Circuit Courts in a county in Maryland. The court rules about how to file the appeal can be found in many public libraries, in the *Maryland Rules of Procedure, Title 7, Chapter 200*.

The period for filing an appeal expires: May 9, 1999

## REVIEW ON THE RECORD

Upon review of the record in this case, the Board of Appeals adopts the findings of fact and conclusions of law of the Hearing Examiner.

The Board concurs with the Hearing Examiner in finding that the employer's witness offered no explanation for their late appeal. There are insufficient facts present in the instant case which would allow the Board to take judicial notice that the appeal was filed timely.



**DECISION**

IT IS HELD THAT the claimant did not file a timely appeal within the meaning and intent of Md. Code Ann., Labor & Emp. Article, Section 8-806(e) (Supp. 1996).

The decision of the Hearing Examiner is affirmed.



Clayton A. Mitchell, Sr., Associate Member



Hazel A. Warnick, Chairperson

**Notice of Right to Request Waiver of Overpayment**

The Department of Labor, Licensing and Regulation may seek recovery of any overpayment received by the Claimant. Pursuant to Section 8-809 of the Labor and Employment Article of the Annotated Code of Maryland, and Code of Maryland Regulations 09.32.07.01 through 09.32.07.09, the Claimant has a right to request a waiver of recovery of this overpayment. This request may be made by contacting Overpayment Recoveries Unit at 410-767-2424 or 1-800-827-4839. If this request is made, the Claimant is entitled to a hearing on this issue.

**A request for waiver of recovery of overpayment does not act as an appeal of this decision.**

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Copies mailed to:

BONNIE S. WILLIAMS

DEPARTMENT OF THE INTERIOR

JILL MAYER

Local Office - #04

# UNEMPLOYMENT INSURANCE APPEALS DECISION

BONNIE S. WILLIAMS

Before the:

SSN

**Claimant**

vs.

DEPARTMENT OF THE INTERIOR

**Employer/Agency**

**Maryland Department of Labor,  
Licensing and Regulation  
Appeals Division**  
1100 North Eutaw Street  
Room 511  
Baltimore, MD 21201  
(410) 767-2421

Appeal Number: 9900377  
Appellant: Employer  
Local Office: 04 / Hagerstown

February 11, 1999

**For the Claimant:** PRESENT

**For the Employer:** PRESENT, ANITA BARTLINZSKI, EDWARD WENSCHHOF

**For the Agency:**

## ISSUE(S)

Whether the claimant's separation from this employment was for a disqualifying reason within the meaning of the MD Code Annotated Labor and Employment Article, Title 8, Sections 8-1001 (voluntary quit for good cause), 8-1002 - 1002.1 (gross/aggravated misconduct connected with the work) or 8-1003 (misconduct connected with the work). Whether this appeal was filed timely within the meaning of Section 806 of the Labor and Employment Article.

## FINDINGS OF FACT

The local office mailed copies of a benefit determination to the parties in this case. The determination had an appeal deadline of January 5, 1999. In this case, the appeal was received at the Hagerstown office on January 8, 1999. The employer offers as a reason for the late appeal that the letter of appeal is dated January 5, 1999. The letter of appeal was prepared by the Frick Company with no indication when it was mailed. There is no postmarked envelope in the file and no explanation was provided by the Frick Company.

## CONCLUSIONS OF LAW

Md. Code Ann., Labor & Emp. Article, Section 8-806(e) (Supp. 1996) provides, in essence, that either a claimant or employer has 15 days after the date of the mailing of the benefit determination to file a timely appeal. Appeals filed after that date, either in person or by mail, shall be deemed late and the benefit determination shall be final, unless the appealing party meets the burden of demonstrating good cause for late filing. COMAR 09.32.06.01B provides that an appeal is considered filed on the earlier of the following: (a) the date that it is delivered in person to any local employment office, or (b) the date on which it is postmarked by the U.S. Postal Service. COMAR 09.32.06.01B(3) provides that "the period for filing an appeal from the claims examiner's determination may be extended by the hearing examiner for good cause shown." Good cause means due diligence in filing the appeal. Francois v. Alberti Van & Storage Co., 285 Md. 663, 404 A.2d 1058 (1979) and Matthew Bender & Co. v. Comptroller of the Treasury, 67 Md. App. 693, 509 A.2d 702 (1986).

## EVALUATION OF EVIDENCE

In the instant case, the employer filed a late appeal for reasons which do not constitute good cause under Section 8-806. The appeal letter dated January 5, 1999 was received at the local office on January 8, 1999. There is no postmark envelope in the file and absent any explanation of the reason for the late arrival of the appeal notice, I must find that the appeal was filed late for reasons which do not constitute good cause.

## DECISION

IT IS HELD THAT the claimant did not file a timely appeal within the meaning and intent of Md. Code Ann., Labor & Emp. Article, Section 8-806(e) (Supp. 1996).

The determination of the Claim Specialist and any disqualification applied, remains the same.

  
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A. S. Levy, Esq.  
Hearing Examiner

### Notice of Right of Further Appeal

Any party may request a further appeal either in person or by mail which may be filed in any local office of the Department of Labor, Licensing and Regulation, or with the Board of Appeals, Room 515, 1100 North Eutaw Street, Baltimore, MD 21201. Your appeal must be filed by February 26, 1999.

Note: Appeals filed by mail are considered timely on the date of the U.S. Postal Service postmark.

Date of hearing: January 25, 1999

THJ/Specialist ID: EWHG6

Seq. No.: 001

Copies mailed on February 11, 1999 to:

BONNIE S. WILLIAMS  
DEPARTMENT OF THE INTERIOR  
LOCAL OFFICE #04