



Maryland

Department of Economic & Employment Development

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

- DECISION -

Decision No.: 2030 -BH-93

Date: December 1, 1993

Claimant: George M. Carr, Jr.

Appeal No.: 9306706

S.S. No.:

Employer: Tracor Applied Sciences, Inc.

L. O. No.: 43

Appellant: CLAIMANT

Issue: Whether the claimant is receiving or has received a governmental or other pension, retirement or retired pay, annuity or other similar periodic payment which is based on any previous work of such individual, which is equal to or in excess of his weekly benefit amount, within the meaning of s8-1008 of the Labor and Employment Article.

- NOTICE OF RIGHT OF APPEAL TO COURT -

You may file an appeal from this decision in the Circuit Court for Baltimore City one of the Circuit Courts in a county in Maryland. The court rules about how to appeal can be found in many public libraries, in the *Annotated Code Maryland Maryland Rules*, Volume 2, Brules.

The period for filing an appeal expires

December 31, 1993

- APPEARANCES -

FOR THE CLAIMANT:

FOR THE EMPLOYER:

George Carr, Jr. - Claimant

Employer not represented

John T. McGucken - Agency Counsel

EVALUATION OF THE EVIDENCE

The Board of Appeals has considered all of the evidence presented, including the testimony offered at the hearing before the Hearing Examiner, the legal argument made at the hearing before the Board of Appeals, and all 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

The claimant was employed by Tracer Applied Sciences, Inc. until his job was abolished in January, 1993. At that time he became eligible to receive a non-contributory periodic pension from this employer, in the amount of \$2,250.00 per month. However, the claimant did not receive the first installment of this periodic pension payment until March 4, 1993.

Upon retirement in January, the claimant filed for unemployment insurance benefits, with a benefit year beginning January 10, 1993. He was found monetarily eligible for a weekly benefit amount of \$223.00.

On March 4, 1993, he received the first installment of his periodic pension. The amount he received was the equivalent of two months of pension.

CONCLUSIONS OF LAW

Under LE, §8-1008(b), a claimant is disqualified from receiving unemployment benefits for each week in which he receives a retirement payment that is equal to or exceeds his weekly benefit amount. The claimants monthly pension amount of \$2250.00, allocated weekly, pursuant to LE, §8-1008(c) clearly exceeds his weekly benefit amount.

The issue in this case is whether the pension payment received by the claimant on March 4, 1993, should be allocated retroactively to the month of February, 1993, or only be allocated for the month of March, 1993.

The Board concludes that this pension amount should only be allocated for the month of March, 1993. Statutory terms should be given their ordinary and commonly accepted meaning. Allen v. Core Target City Youth Program, 275 Md. 69 (1975). LE, §8-1008 states that the disqualification applies: "for each week in which. . .an individual. . .receives a retirement payment." [Emphasis added.] The statute does not state "will receive" or "earned." The plain and commonly accepted meaning of "receives" means that the claimant actually has possession of the pension amount.