

 **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.: 652-BH-90

Date: June 29, 1990

Claimant: Carroll K. Simmons

Appeal No.: 9001426

S. S. No.:

Employer:

L O. No.: 40

Appellant: CLAIMANT

Issue: Whether the claimant filed proper claims for benefits within the meaning of Section 4(b) of the law.

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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 MAYBE 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 July 29, 1990

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— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Carroll Simmons - Claimant

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT  
John T. McGucken - Legal Counsel

## EVALUATION OF THE EVIDENCE

The Board of Appeals has considered all of the evidence presented, including the testimony offered at the hearing. 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.

The original issue in this case was whether the claimant filed timely claims for benefits for the five-week period between December 24, 1989 and January 27, 1990. At the Board hearing, the agency conceded that the claimant had filed a timely claim for the week ending December 30, 1989; and the claimant conceded he was not eligible for benefits for the week ending January 6, 1990 on account of his earnings that week. The following three weeks, the weeks ending January 13, 20 and 27, are the only weeks still at issue.

## FINDINGS OF FACT

The claimant filed a claim for partial benefits for the week ending December 30, 1989. The timeliness of the claim card for that week is no longer at issue.

The claimant was mailed a bi-weekly claim card for the weeks ending January 6 and January 13, 1990. This card was mailed to him on January 18, received by him on January 19 and received back by the agency, completed by the claimant, on January 23, 1990.

On this bi-weekly claim card, the claimant indicated that he had worked and earned more than his weekly benefit amount for the week ending January 6. For the week ending January 13, the claimant indicated that he had no earnings, and he claimed benefits for that week.

The next bi-weekly card, for the weeks ending January 20 and January 27, was not mailed to the claimant. When he didn't receive it, he visited his local office on January 29 and filed the cards in person.

The Claims Examiner then ruled that the claims filed for the weeks ending January 13, 20 and 27, 1990 were untimely.

Each of these three claims was filed timely within the agency's guidelines. But the claimant was disqualified because, once he indicated on the January 6 card that he earned more than his weekly benefit amount, the computer closed his claim. Even though the claimant indicated on the other half of his bi-weekly claim form that he was not employed for the week ending January 13, he was not paid benefits for this week.