



DEPARTMENT OF HUMAN RESOURCES
EMPLOYMENT SECURITY ADMINISTRATION

1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

383-5032
- DECISION -

BOARD OF APPEALS

JOHN J. KENT
Chairman

HENRY G. SPECTOR
HAZEL A. WARNICK
Associate Members

SEVERN E. LANIER
Appeals Counsel

STATE OF MARYLAND

HARRY HUGHES
Governor

KALMAN R. HETTLEMAN
Secretary

DECISION NO.: 0634-SE-80

DATE: June 13, 1980

APPEAL NO.: 259568

S. S. NO.:

CLAIMANT: Carolyn K. Tasker

EMPLOYER: Garrett Mfg. Co. , Inc.

L. O NO.: 14

APPELLANT: EMPLOYER

ISSUE: Whether the Claimant was unemployed within the meaning of Section 20(1) of the Law.

NOTICE OF RIGHT OF APPEAL TO COURT

YOU MAY FILE AN APPEAL FROM THIS DECISION IN ACCORDANCE WITHIN LAWS OF MARYLAND. THE APPEAL MAYBE TAKEN IN PERSON OR THROUGH AN ATTORNEY IN THE SUPERIOR 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 July 13, 1980

- APPEARANCES -

FOR THE CLAIMANT:

Alemeda B . Sweitzer - President Local 334
Connie Weaver
Anna Virts
Harold Burkholder -
International Union Rep.

FOR THE EMPLOYER:

Dwight Stover -
Attorney
Oma Everly
Witness

FINDINGS OF FACT

The Claimant is employed by Garrett Manufacturing Company of Deer Park, Maryland. She is a member of Local 334 of the International Ladies Garment Workers Union (I.L.G.W.U.).

The Employer closed the plant for the Christmas and New Year holidays from December 23, 1979, through January 5, 1980. The decision to close the plant was made by the president of the company and was not required by the collective bargaining agreement under which the company and the union were then operating.

The Claimant received holiday pay for Christmas day and for New Year's day. This payment was required by the existing collective bargaining agreement.

The Claimant also received a length of service payment of 3% of her yearly earnings for the previous year. This payment was made by a-check dated December 1, 1979, from the Health Fund of the I.L.G.W.U. The payment was received by the Claimant on December 4, 1979.

The money from which this length of service payment is made, is paid directly to the I.L.G.W.U. by customers of the Employer out of moneys due to the Employer for goods processed and delivered by the Employer.

The length of service benefit is paid to employees regardless of whether or not they work during the Christmas and New Year holiday. A length of service benefit was paid when the employees of the Garrett Manufacturing Company worked during the week of Christmas and New Year's approximately five years ago.

The Claimant was subsequently denied benefits by the Claims Examiner under Section 20(1) and 4 on the theory that the receipt of the length of service benefit payment constituted vacation pay attributable to the week of December 23, 1979, through December 29, 1979. This decision was made because the Employer had reported to the Claims Examiner that it was closed for vacation during the week of December 23, 1979, through January 5, 1980, and that the employees who worked three years or more had been paid vacation pay for the week ending December 29, 1979, out of the Health Fund.

COMMENTS

The Board of Appeals, after considering all of the evidence in the case, finds that the length of service payment which was made to the Claimant on December 4, 1979, was a bonus and as such, constituted wages within the meaning of Section 20(n) of the Maryland Unemployment Insurance Law. Wages within the definition include all remuneration for personal services, including commissions and bonuses. The fact that the money was paid to the Claimant by the Health Fund, does not change the fact that it is money paid to her by reason of her personal services to the Employer throughout the previous year.