

***-DECISION-***

Claimant:  
RIKIESHA A HAWKINS

Decision No.: 3307-BH-12

Date: July 10, 2012

Appeal No.: 1119849

Employer:  
MARYLAND INSTITUTE CLG OF ART  
HUMAN RESOURCES

S.S. No.:

L.O. No.: 64

Appellant: CLAIMANT - REMAND FROM  
COURT

Issue: Whether the claimant is monetarily eligible for benefits under Section 8-802 of the Labor and Employment Article.

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**- 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: August 09, 2012

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**- APPEARANCES -**

FOR THE CLAIMANT:

RIKIESHA A. HAWKINS  
THOMAS B. CORBIN, Esq.  
JULIE LIN, Program Manager  
HILDE LI, Employment Coordinator

FOR THE EMPLOYER:

### **PRELIMINARY STATEMENT**

This matter comes before the Board of Appeals (Board) pursuant to an Order of the Circuit Court of Baltimore City granting the Board's Motion for Remand. The Board scheduled this hearing and noticed the issue of whether the claimant is monetarily eligible for benefits pursuant to *Section 8-802* of the Labor and Employment Article. The Board's Notice of Hearing also noted that the Board's hearing would be limited to determining the claimant's position and source of funding for that position.

Notice of the Board's hearing was sent to the parties at their addresses of record. No notices were returned as having been non-deliverable. The claimant appeared at the Board hearing and presented evidence regarding the issue noticed. The employer and the Agency did not appear.

### **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 Labor, Licensing and Regulation's documents in the appeal file.

The General Assembly declared that, in its considered judgment, the public good and the general welfare of the citizens of the State required the enactment of the Unemployment Insurance Law, under the police powers of the State, for the compulsory setting aside of unemployment reserves to be used for the benefit of individuals unemployed through no fault of their own. *Md. Code Ann., Lab. & Empl. Art., § 8-102(c)*. Unemployment compensation laws are to be read liberally in favor of eligibility, and disqualification provisions are to be strictly construed. *Sinai Hosp. of Baltimore v. Dept. of Empl. & Training, 309 Md. 28 (1987)*.

The Board reviews the record *de novo* and may affirm, modify, or reverse the findings of fact or conclusions of law of the hearing examiner on the basis of evidence submitted to the hearing examiner, or evidence that the Board may direct to be taken, or may remand any case to a hearing examiner for purposes it may direct. *Md. Code Ann., Lab. & Empl. Art., § 8-510(d); COMAR 09.32.06.04(H)(1)*. The Board fully inquires into the facts of each particular case. *COMAR 09.32.06.02(E)*.

### **FINDINGS OF FACT**

The claimant was employed by the employer, Maryland Institute College of Art from September 16, 2008 until July 31, 2009. During her employment the claimant worked full-time as a community arts core member. The claimant was paid twenty-two thousand dollars (\$22,000.00) per year by this employer. The claimant was not a student during this period of employment.

The claimant's wages from this employer were in covered employment.

### CONCLUSIONS OF LAW

Md. Code Ann., Lab. & Emp. Art., Section 8-802 provides that “(a)n individual is eligible for benefits if, during the base period:

- (1) the individual was paid wages of at least the lower quarterly wage amount in line 1 of the schedule of benefits in Section 8-803 of this subtitle for covered employment during the calendar quarter in which the individual’s wages were highest; and
- (2) the individual was paid wages for covered employment that, during at least 2 calendar quarters combined, are at least 1.5 times the upper limit of the wages for the line I the schedule of benefits for which the individual qualifies.

The Board finds based on a preponderance of the credible evidence that the claimant met her burden of demonstrating that she was monetarily eligible within the meaning and intent of *Md. Code Ann., Lab. & Empl. Art. §8-802*. The prior decisions of the Board and the hearing examiner shall be reversed.

The claimant earned wages, in covered employment, from this employer beginning September 16, 2008.

The Board finds based on a preponderance of the credible evidence that the claimant has met her burden of demonstrating that she earned sufficient wages, in covered employment, so as to be monetarily eligible for benefits pursuant to *Section 8-802* of the Labor and Employment Article.

### DECISION

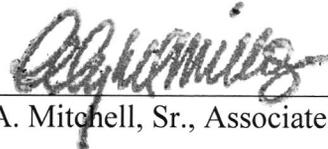
IT IS HELD THAT the claimant has established monetary eligibility within the meaning and intent of *Md. Code Ann., Labor and Emp. Article, Section 8-802*. Benefits shall be allowed from the week beginning August 15, 2010 so long as the claimant is meeting the other requirements of the law.

The prior decisions of Board and the hearing examiner are reversed.



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Donna Watts-Lamont, Chairperson



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Clayton A. Mitchell, Sr., Associate Member

RD

Date of hearing: June 26, 2012

Copies mailed to:

RIKIESHA A. HAWKINS

MARYLAND INSTITUTE CLG OF ART

DENNIS MORTON

SUSAN BASS DLLR

BETTY MULL

JIM MCVICKER

THOMAS B. CORBIN ESQ.

Susan Bass, Office of the Assistant Secretary

**UNEMPLOYMENT INSURANCE APPEALS DECISION**

RIKIESHA A HAWKINS

SSN #

**Claimant**

vs.

MARYLAND INSTITUTE CLG OF ART  
HUMAN RESOURCES

**Employer/Agency**

Before the:

**Maryland Department of Labor,  
Licensing and Regulation**

**Division of Appeals**

1100 North Eutaw Street

Room 511

Baltimore, MD 21201

(410) 767-2421

Appeal Number: 1119849

Appellant: Claimant

Local Office : 64 / BALTOMETRO  
CALL CENTER

June 28, 2011

**For the Claimant:** PRESENT

**For the Employer:**

**For the Agency:**

**ISSUE(S)**

Whether the claimant is in receipt of vacation or holiday pay pursuant to Sec. 1007 of the Labor and Employment Article, Title 8; whether the claimant is monetarily ineligible because the claimant has not earned sufficient wages during the Base Period pursuant to Section 101 & 802 of the Labor and Employment Article, Title 8; whether the claimant is entitled to partial unemployment benefits within the meaning of Section 803; whether the claimant is overpaid within the meaning of Section 8-809a.

**FINDINGS OF FACT**

The claimant, Rikiesha Hawkins, filed a claim for unemployment insurance benefits, establishing a benefit year effective August 16, 2010, and a weekly benefit amount of \$0. The Claim Specialist determined the claimant had earnings from a work training program financed by a governmental agency, and further determined those earnings were not from covered employment, as defined in Maryland Code, Labor & Employment Article, Title 8, Section 221, and cannot be used in determining monetary eligibility under Maryland Code, Labor & Employment Article, Title 8, Section 802.

The claimant worked for the Maryland Institute College of Art, and her last day worked was July 31, 2009. At the time of her separation from employment, the claimant worked full-time (approximately 40 hours per week) as a community arts core member. The funding came in part from Americorp as applied through a work-study program at the Maryland Institute College of Art.

### CONCLUSIONS OF LAW

The Md. Code Ann., Labor & Emp. Article, Section 8-802, provides “(a)n individual is eligible for benefits if, during the base period:

- (1) the individual was paid wages of at least the lower quarterly wage amount in line 1 of the schedule of benefits in Section 8-803 of this subtitle for covered employment during the calendar quarter in which the individual’s wages were highest; and
- (2) the individual was paid wages for covered employment that, during at least 2 calendar quarters combined, are at least 1.5 times the upper limit of the wages for the line in the schedule of benefits for which the individual qualifies.

### EVALUATION OF THE EVIDENCE

The claimant had the burden to show, by a preponderance of the credible evidence, she earned qualifying wages from covered employment, during the period in question, as defined by Maryland Unemployment Insurance Law. In the case at bar, the claimant did not meet this burden.

In Glascoc v. Regional Planning Council, 10-BH-82, 899-BH-83, the Board of Appeals held where the claimant was employed by a work-study program under which the money for her earnings was provided by a federal grant to her employer, the claimant was not providing services in covered employment within the meaning of Section 8-221. In the case at bar, the claimant worked for the Maryland Institute College of Art (“MICA”). MICA is an institution of higher learning. The claimant worked in a work-study program funded by the federal government. In accordance with Glascoc v. Regional Planning Council, *supra*, the claimant’s wages earned from working for MICA are not qualifying wages.

Accordingly, I hold the claimant failed to meet her burden in this case and adequately did not adequately prove she earned qualifying wages from covered employment, during the period in question, as defined by Maryland Unemployment Insurance Law. Benefits are, therefore, denied.

### DECISION

IT IS HELD the claimant failed to establish monetary eligibility within the meaning and intent of Md. Code Ann., Labor & Emp. Article, Section 8-802. Benefits are denied from the week beginning August 16, 2010, until the claimant establishes monetary eligibility. The claimant may contact Claimant Information Service concerning the other eligibility requirements of the law at [ui@dllr.state.md.us](mailto:ui@dllr.state.md.us) or call 410-949-0022 from the Baltimore region, or 1-800-827-4839 from outside the Baltimore area. Deaf claimants with TTY may contact Client Information service at 410-767-2727, or outside the Baltimore area at 1-800-827-4400.

The determination of the Claims Specialist is affirmed.

*E. P. Melcavage*

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E. P. Melcavage, Esq.  
Hearing Examiner

### **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 410-767-2404. 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.**

**Esto es un documento legal importante que decide si usted recibirá los beneficios del seguro del desempleo. Si usted disiente de lo que fue decidido, usted tiene un tiempo limitado a apelar esta decisión. Si usted no entiende cómo apelar, usted puede contactar (301) 313-8000 para una explicación.**

### **Notice of Right to Petition for Review**

Any party may request a review either in person, by facsimile or by mail with the Board of Appeals. Under COMAR 09.32.06.01A(1) appeals may not be filed by e-mail. Your appeal must be filed by July 13, 2011. You may file your request for further appeal in person at or by mail to the following address:

Board of Appeals  
1100 North Eutaw Street  
Room 515  
Baltimore, Maryland 21201  
Fax 410-767-2787  
Phone 410-767-2781

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

Date of hearing : June 17,2011

CH/Specialist ID: RBA3B

Seq No: 002

Copies mailed on June 28, 2011 to:

RIKIESHA A. HAWKINS

MARYLAND INSTITUTE CLG OF ART

LOCAL OFFICE #64

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