

In The Circuit Court for Baltimore City  
**CIVIL**

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In the Matter of

KEITH E. BOOTH  
VS.  
BOARD OF APPEALS DEPT. OF ECONOMIC & EMPLOYMENT DEV.



The factual findings made by the Board are supported by substantial evidence in the administrative record, and the Board made no errors of law. Therefore, the Board's decision should be affirmed.

## II. Scope of Review

Judicial review of the administrative adjudication of unemployment insurance appeals is governed by §8-512. Findings of fact made by the Board are binding upon this Court if there is substantial evidence in the record to support them. Section 8-512(d); Board of Educ. v. Paynter, 303 Md. 22, 491 A.2d 1186 (1985). This Court may only determine if reasoning minds could reach the same conclusion from the facts and permissible inferences in the record before the Board. Baltimore Lutheran High School Association, Inc. v. Employment Security Administration, 302 Md. 649, 490 A.2d 701 (1985); Ramsay Scarlett & Co., Inc. v. Comptroller of the Treasury, 302 Md. 825, 490 A.2d 1296 (1985). If the Board's conclusion could be reached by reasoning minds, this Court has no power to reject it, even if the Court would conclude differently after its review of the record.<sup>2</sup> Paynter, 303 Md. at 35, 491 A.2d at 1193; Baltimore Lutheran, 302 Md. at 662, 490 A.2d at 707.

The Board's determination of the credibility of witnesses' testimony is binding upon the reviewing court. Board of Appeals v. Mayor and

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<sup>2</sup>A remand for further factfinding is appropriate only after the circuit court reviews the record for substantial evidence and finds it lacking. Department of Economic and Employment Dev. v. Hager, 96 Md. App. 362, 625 A.2d 342 (1993); Juiliano v. Lion's Manor Nursing Home, 62 Md. App. 145, 488 A.2d 538 (1985).

City Council, 72 Md. App. 427, 530 A.2d 763 (1987). When faced with conflicting inferences, ". . .it is for the referee to draw the inference, not the reviewing court." Paynter, 303 Md. at 36, 491 A.2d at 1195. "Furthermore, not only is it the province of the agency to resolve conflicting evidence, but where inconsistent inferences from the same evidence can be drawn, it is for the agency to draw the inference." Baltimore Lutheran, 302 Md. at 663, 490 A.2d at 708.

Because the administrative findings in this case are supported by substantial evidence in the administrative record and the legal conclusion is reasonable, the Board's decision should be affirmed.

### III. Statement of Facts

During the 1992-93 school year, Claimant was employed as a substitute teacher and worked when there was a vacancy at one of the two high schools that he had chosen to work for when he was initially hired (R.23-24,32,39-40). Claimant was an active substitute throughout the 1992-93 school year, was not discharged or told that he could not return to his position as a substitute teacher, and was still eligible for employment as a substitute teacher in the fall of 1993 (R.25,32,38).

During the summer of 1993, Claimant was not called to work as a substitute teacher due to the school recess for summer vacation. Claimant was, however, placed on the Employer's substitute eligibility list for the 1993-94 school year, confirming that Claimant was eligible to return to work for the successive school term (R.25,44). Generated July 16, 1993, the list was intended to establish reasonable assurance that substitute teachers would return to work in the fall of 1993 (R.25-26).

A DEED Claims Examiner determined that Claimant was ineligible for unemployment compensation because he had a reasonable assurance that he would return to his employment in the fall of 1993 (R.7). Claimant appealed (R.11), and a full evidentiary hearing was held on August 3, 1993 (R.20-45). The Hearing Examiner affirmed, concluding that the Employer's "eligibility substitute teacher employment list for the 1993-94 school year confirms that Claimant ha[d] a reasonable assurance for the return to work during that season." (R.46-48). Claimant appealed (R.50), and the Board affirmed, adopting the findings of fact and conclusions of law of the Hearing Examiner (R.57-58). Subsequently, Claimant appealed to this Court.

IV. The Board's decision that Claimant had a reasonable assurance of working in an instructional capacity during the 1993-94 academic year is supported by substantial evidence in the administrative record and is correct as a matter of law.

The Board determined that Claimant was ineligible for unemployment insurance benefits during the summer of 1993 pursuant to §8-909, which provides, in pertinent part:

(a) Employees in instructional, research, or principal administrative capacities. -- An individual may not be paid benefits based on covered employment performed for an educational institution . . . in an instructional, principal administrative, or research capacity for any week of unemployment that begins: . . .

(2) during the period between 2 successive academic terms or years; . . . if:

(i) the individual performs the covered employment in the 1st term; and

(ii) there is a contract or reasonable assurance that the individual will work in an instructional, principal administrative, or research capacity for an educ-

ational institution in the 2nd term.<sup>3</sup>

The only issue before this Court is whether a reasoning mind considering the record evidence could reach the Board's conclusion that Claimant had a reasonable assurance of working in an instructional capacity during the 1993-94 school year.

Whether or not an individual has a "reasonable assurance" of continuing employment is a factual, employment-related issue that is within the particular expertise of the Board. Reviewing courts should be reluctant to second guess administrators in areas "especially within the expertise of the administrative officials administering the unemployment insurance law...". Barley v. Department of Employment Sec., 242 Md. 102, 106, 218 A.2d 24, 27 (1966). Section 8-512(d), which limits this Court's scope of review of the Board's decision, indicates that reviewing courts should defer to the Agency as long as its findings of fact are supported by substantial evidence and its legal conclusion is reasonable. The reviewing court, honoring the expertise of the Agency, must review the Board's determination in the light most favorable to the Agency, and the decision of the Board must be left undisturbed in the absence of an error of law. Baltimore Lutheran High School Assoc. v. Employment Sec. Admin., 302 Md. 649, 663-64, 490 A.2d 701, 708 (1985).

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<sup>3</sup>This form of §8-909 was in effect when Claimant initially applied for unemployment benefits in 1992. In 1993, §8-909 was repealed and enacted as a new section without a substantial change in the language. 1993 Md. Laws Ch. 192.

The Board did not err in this case. Although no Maryland appellate court has issued a decision defining "reasonable assurance", courts in other jurisdictions support the Board's determination, holding that a reasonable assurance does not constitute an absolute guarantee of employment and need not be a formal written or oral agreement to rehire. Board of Educ. of Philadelphia v. Unemployment Compensation Bd. of Review, 609 A.2d 596, 599 (Pa. Commw. 1992), appeal denied, 622 A.2d 1378 (Pa. 1993); Paynes v. Board of Educ., 388 N.W. 2d 358, 362 (Mich. App. 1986).

Rather, the term "contract or reasonable assurance" encompasses an implied agreement that the employee will perform services for the educational institution during the ensuing academic year. Garrison v. Department of Economic Sec., 750 P.2d 1370, 1373 (Ariz. App. 1988)(citing legislative history of the Federal Unemployment Tax Act, 26 U.S.C. §3304(a)(6)(A), upon which Maryland's §8-909 is based); Milkowski v. Department of Labor, 402 N.E. 2d 646, 648-49 (Ill. App. 1980); Ellman v. Unemployment Compensation Bd. of Review, 407 A.2d 478, 479 (Pa. Commw. 1979). In each of these cases, the court found that the claimants were not entitled to unemployment compensation due to the existence of a reasonable assurance/implied agreement for continuing work in the subsequent academic year.

In Ellman, the court found an implied agreement for the claimant's continued employment as a substitute teacher based on the fact that the claimant's name appeared on the school district's substitute list for the following school year. 407 A.2d at 479. In addition, the claimant

stated in her application for unemployment benefits that she expected to return to work in the following year. Id.

In Milkowski, the unemployment claimant had been a full-time teacher until 1976, when his position was changed to that of a substitute teacher. 402 N.E. 2d at 647. The claimant performed the duties of a substitute teacher for a year and in June, 1977, "he was not told to come back; nor was he told not to come back. In previous years, while he was a full-time teacher, he was always told in June that he was to come back in September." Id. Nevertheless, the court found that the claimant had an implied contract to return to work because he "ha[d] not resigned, ha[d] not retired and ha[d] not been terminated. Id. at 649. Clearly, the court determined that no express notification that an individual would be rehired was necessary to satisfy the reasonable assurance requirement.

The Supreme Court of Alaska so held in Allen v. Department of Labor, 658 P.2d 1342 (Alaska 1983). The Allen claimant was employed for three years as a bilingual instructional aide. Id. at 1342. She had no written contract with the school district and had to reapply for the position each year. Id. at 1343. At the end of the 1979-80 school year, the claimant received no indication that she would not be rehired; however, "she was not told one way or another about her reemployment until August 17, 1980, when she was asked if she could work the next day." Id. The court found that the claimant had a reasonable



assurance of continuing employment, even though she was not notified that she would be rehired.<sup>4</sup>

In the case at bar, Claimant was an active substitute teacher during the 1992-93 academic year (R.32). In May, 1993, Claimant worked steadily as a replacement for a teacher who was on long-term leave (R.37). At the end of the year, Claimant was not discharged and was not told that he could not return to work the following year — Claimant was still eligible for employment as a substitute teacher (R.25,38). Finally, Claimant was placed on the Employer's substitute eligibility list in July, 1993 (R.25,44). These facts constitute substantial evidence from which the Board could reasonably conclude, as did the courts in Ellman, Milkowski, and Allen, that Claimant had a reasonable assurance of employment in the 1993-94 academic year. Because a reasoning mind could conclude as the Board did, the Board's decision should be affirmed.

Claimant argues, however, that he did not have a reasonable assurance of continuing employment due to the sporadic nature of his work. Claimant is wrong. The fact that substitute work is, by nature, uncertain is irrelevant to the issue of whether one has reasonable assurance of continuing employment. Rather, the "kernel of the issue is whether, despite the inherent uncertainties of the substitute-employment relationship, the parties in good faith expect that

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<sup>4</sup>The court also considered the claimant's past employment with the school district. Id. at 1345.

relationship to continue." Garrison, 750 P.2d at 1374(emphasis added). Indeed, the majority of courts conclude that teachers who are employed as part-time substitutes in one academic year and have a reasonable assurance of employment as substitutes in the subsequent year are not entitled to unemployment compensation during the intervening summer, despite the indefinite nature of the employment. See, e.g., Goralski v. Unemployment Compensation Bd. of Review, 408 A.2d 1178 (Pa. Commw. 1979)(substitute teacher who had reasonable assurance of continued employment as substitute was not eligible for benefits); Davis v. Department of Employment Servs., 481 A.2d 128 (D.C. App. 1984)(statute disqualifying teachers from summer benefits applied to part-time substitutes despite the indefinite nature of their employment); Board of Educ. v. Unemployment Insurance Appeals Bd., 206 Cal. Rptr. 788, 795 (Cal. App. 1984)(it would be a violation of the principle of "like pay for like services" if substitute teachers were eligible for benefits during the summer while full-time teachers were not); Slominski v. Employment Div., 711 P.2d 215 (Or. App. 1985)(substitute teaching in both year preceding and year succeeding summer recess will disqualify teacher from unemployment compensation, despite uncertainty as to quantity of work); Indianapolis Public Schools v. Review Bd., 487 N.E.2d 1343, 1345 (Ind. App. 1986)(substitute teacher was ineligible for unemployment compensation because the "character of his employment from one academic term to the next, [albeit indefinite, would] essentially remain the same"); Berland v. Employment Security Dep't, 760 P.2d 959, 963 (Wash. App. 1988)(While substitute teachers do not have the financial security of full-time teachers, their

unemployment during a summer recess "is not the type of unpredictable layoff that unemployment benefits are designed to redress. Though this result may seem unfair to some,.... this was a decision for the Legislature to make . . . , and make it the Legislature did when the law was enacted.").

Claimant also avers that the school system used him as a security guard at times rather than as a substitute teacher. Claimant did not testify to this at the DEED hearing -- he said that he "was used very inappropriately in a lot of situations", but he did not elaborate (R.34-35). The Employer testified that Claimant was an active substitute for the 1992-93 school year, and even Claimant agreed that he acted as a substitute teacher (R.32,37,39-40). There is clearly substantial evidence to support the Board's finding that Claimant was a substitute teacher.<sup>5</sup>

Finally, Claimant argues that the Hearing Examiner did not allow him to raise relevant points during the hearing. During Claimant's cross-examination of the Employer's witness, the Hearing Examiner properly determined that one of Claimant's questions was irrelevant to both the issue in the case and the witness' prior testimony (R.29-30). The Hearing Examiner, charged with the responsibility of ascertaining the facts, has the discretion to determine whether a question or a line of questioning is relevant to the issue at hand or within the scope of

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<sup>5</sup>Even if there was not, however, §8-909's disqualification also extends to individuals performing services for educational institutions in a non-instructional capacity. See §8-909(b).

the witness' testimony. In this case, the Hearing Examiner reasonably determined that Claimant's question was not relevant to the issue of reasonable assurance and asked Claimant to move on to another question, which Claimant did. This, clearly, was not a denial of due process. Claimant had the opportunity to cross-examine the Employer's witness and to give full testimony before the Hearing Examiner.

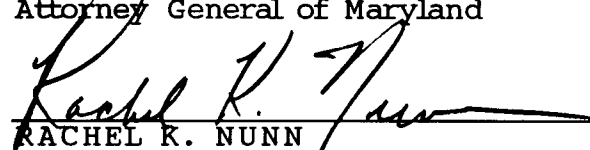
V. Conclusion

Section 8-909 excludes from unemployment compensation those who temporarily have no employment during a traditional school recess, but who have a reasonable assurance of returning at the end of the recess. Claimant was employed as a substitute teacher during the 1992-93 school year and had a reasonable assurance that he would return as a substitute teacher in the 1993-94 year.

WHEREFORE, for the foregoing reasons, the Board respectfully requests that its decision disqualifying Claimant from receiving unemployment compensation be affirmed.

Respectfully submitted,

J. JOSEPH CURRAN, JR.  
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(410) 333-4813

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of June, 1994, a copy of the foregoing Memorandum in Support of the Board of Appeals was mailed, postage prepaid, to Keith E. Booth, 932 N. Collington Ave., Baltimore, MD 21205.

  
RACHEL K. NUNN

① ROW

**KEITH E. BOOTH**  
Appellant

\* IN THE  
\* CIRCUIT COURT

v.

\* FOR  
\* BALTIMORE CITY

**EMERGENCY SUBSTITUTE  
TEACHER AND DEP'T OF ECON. &  
EMPLOYMENT DEV.**

\* CASE NO. 93330026/CL173161

Appellees

\* \* \* \* \*

MEMORANDUM

Appellant Keith Booth ("Appellant" or "Booth") filed an appeal from the decision of the Board of Appeals (the "Board") of the Department of Economic and Employment Development ("DEED"). Without a hearing, the Board summarily affirmed the decision of the Hearing Examiner. The Hearing Examiner had conducted a hearing, pursuant to Md. Lab. & Empl. Art. Code Ann. §§ 8-509, 8-806 (1991 & Supp. 1993),<sup>1</sup> and determined that Appellant was not entitled to unemployment benefits under § 8-909.

At all relevant times, Booth was a substitute teacher working for Emergency Substitute Teacher ("EST" or the "Employer"). R.46.<sup>2</sup> He was hired in October of 1992, R.23-24, and had selected to work as a substitute teacher on an on-call basis at two high schools, Douglas High School and Walbrook High School. R.39-40, 46.<sup>3</sup> During this time, Booth received partial unemployment benefits. R.36. The school year ended on June 13,

<sup>1</sup>Unless otherwise indicated, all statutory references are to Md. Lab. & Empl. Art. Code Ann. (1991 & Supp. 1993).

<sup>2</sup>The record of the hearing before the Hearing Examiner has been sequentially numbered. Therefore, references to the record shall be abbreviated by the letter "R." followed by the page of the transcript.

<sup>3</sup>Had he chosen, he could have elected to be assigned to any available position at any high school. R.8-9.

1993. R.32-33. EST never discharged Booth. R.32-33, 47. To the contrary, Booth's name appeared on EST's list of July 16, 1993, which contained those employees eligible to work during the 1993-1994 school year. R.44, 46.

In an opinion dated August 18, 1993, the Hearing Examiner decided in favor of the Employer, finding that Booth had received reasonable assurances of future employment, and therefore was not entitled to benefits. The Board of Appeals affirmed this decision in an opinion dated December 9, 1993, without conducting a hearing. R.57-58. Booth then filed a petition for judicial review with the Circuit Court.

At the hearing before the Hearing Examiner, in his "Memoranda of Law" in support of his petition for judicial review (hereinafter, "Booth Memo."), and at the hearing before this court on June 20, 1994, Booth alleged that he had been assigned by EST to perform work other than substitute teaching. See, e.g., R.22,29,33-34; Booth Memo., at 1. In addition, at the hearing before this court, he broadly accused DEED, EST, and the Baltimore public schools of racial and gender discrimination, and he focused on their interest in encouraging black males to become teachers so that they might serve as positive role models. Apart from Booth's bald allegations, however, he did not produce any evidence of racial discrimination by any individual at any time.

#### Scope of Review

The scope of review of a decision of the Board is statutorily governed by § 8-512(d), which provides in pertinent part:

In a judicial proceeding [concerning a claim for benefits], findings of fact of the

Board of Appeals are conclusive and the jurisdiction of the court is confined to questions of law if:

- (1) findings of fact are supported by evidence that is competent, material, and substantial in view of the entire record; and
- (2) there is no fraud.

See also, Bd. of Educ. v. Paynter, 303 Md. 22 (1985); MEMCO v. Md. Empl. Sec. Admin., 280 Md. 536 (1977); Bethlehem Steel Co. v. Bd. of Appeals, 219 Md. 146 (1959); Bd. of Appeals v. Baltimore, 72 Md. App. 427, 431-2 (1987); Adams v. Cambridge Wire Cloth Co., 68 Md. App. 666, 673 (1986).

Section 8-512(d), and case law interpreting it, make clear that "findings of fact made by the Board are binding upon the reviewing court, if supported by substantial evidence in the record." Baltimore, 72 Md. App. at 431. See also, Allen v. Core Target City Youth Program, 275 Md. 69 (1975). The resolution of conflicting evidence is the province of the agency, and "where inconsistent inferences from the same evidence can be drawn, it is for the agency to draw the inference." Balto. Lutheran High Sch. Ass'n, Inc. v. Md. Empl. Security Admin., 302 Md. 649, 663 (1985). On review, this court may only determine "if, from the facts and permissible inferences in the record before the court, reasoning minds could reach the same result." Id.

Decisions of administrative agencies are prima facie correct. On appeal, the agency's decision must be viewed in the light most favorable to the agency. Paynter, 303 Md. at 35-36. Accordingly, "the reviewing court should not substitute its judgment for the expertise of those persons who constitute the administrative agency from which the appeal is taken." Id. (emphasis in original).



Discussion

The principal issue before this court is whether there is substantial evidence to support the Hearing Examiner's finding that Booth had reasonable assurance of re-employment under § 8-909(b)(1)(ii), even before he received the contract for the Fall 1993 term. Section 8-909(b) states, in pertinent part, as follows:

- (b) (1) With respect to services performed in an instructional, research, or principal administrative capacity for an educational institution, benefits may not be paid based on those services for any week of unemployment that begins during:
  - (i) a period between 2 successive academic terms or years; [or]
  - (ii) a similar period between 2 regular but not successive terms. . . .
- (2) This subsection applies only to any individual who:
  - (i) performs the services in an instructional, research, or principal administrative capacity in the first of 2 academic years or terms; and
  - (ii) has a contract or reasonable assurance that the individual will perform the services in an instructional, research, or principal administrative capacity for any educational institution in the second of the 2 academic years or terms.

The determination of reasonable assurance is an inherently fact-specific issue within the particular expertise of the Board. The evidence in the record, viewed in the light most favorable to DEED, would permit reasoning minds to reach the conclusion of reasonable assurance.

No Maryland case has analyzed the term "reasonable assurance," but cases from other states interpreting similar language cast some light on the factors relevant to the present analysis. In Bd. of Educ. v. Unempl. Comp. Bd. of Rev., 609 A.2d 596 (Pa. Commw. 1992), the Commonwealth Court of Pennsylvania noted that a reasonable assurance does not constitute a guarantee of employment, and further observed:

The existence of a reasonable assurance of employment for the succeeding academic year must be determined from the coalescence of relevant factors including whether

the claimant has a history of reemployment with an educational institution, whether an educational institution has offered to place or has actually placed claimant's name on an employee list for the next academic year and has communicated its offer or its action to claimant, and whether claimant is likely to be called as an employee in the following academic year.

Id. at 599. See also, Armstrong Sch. Dist. v. Unemp. Comp. Bd. of Rev., 596 A.2d 1250, 1252 (Pa. Commw. 1991) (also relevant is whether the claimant intends to do the prospective work), appeal denied, 605 A.2d 334 (Pa. 1992). In Grand Rapids Public Schools v. Falkenstern, 425 N.W.2d 128 (Mich. App. 1988), the dire financial situation of the schools and the precipitous drop in enrollment were deemed relevant to whether a letter from the schools announcing anticipated openings sent to previously discharged teachers constituted "reasonable assurance."<sup>4</sup>

In the present case, Booth had been employed by EST for nearly one full academic term. He chose to limit his work to two high schools (R.46) and had been assigned work by EST during that time. R.36-38. He was never discharged by EST (R.35, 47) and nothing other than the summer recess interrupted his availability to work. R.38, 47. In addition, his employer put his name on the eligibility list as early as July 16, 1993. R.25, 46. Moreover, Booth did not provide the Hearing Examiner with any evidence that EST discharged or denied Booth work for any reason other than summer recess.

Booth's contentions that EST assigned him to perform duties other than that of substitute teacher during the 1992-1993 term is not supported by substantial evidence in the

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<sup>4</sup>In Falkenstern, the Michigan court affirmed the Board's decision to award benefits on the grounds that merely sending a letter announcing anticipated openings is not necessarily a reasonable assurance because the Board is entitled to consider "information available to the school system and the circumstances which existed at the time." Id. at 132.

record. The only testimony on the subject was Booth's own statements and the cross examination testimony of George Gentry, the representative of EST, in which he stated that there was no written job description for Booth's position. R.29,34-35. Gentry did not admit that Booth had been assigned to perform duties other than substitute teaching and Booth did not submit any documentation to support his contention. By finding reasonable assurance of future academic work, the Hearing Examiner implicitly found Gentry's testimony more credible. The determination of credibility is exclusively within the province of the fact finder; it is not appropriate for this court to substitute its judgment as to that determination. See Balto. Lutheran High Sch., 302 Md. at 662.

In sum, there is no evidence in the record sufficient to overcome the statutory presumption that the Hearing Examiner's decision as to reasonable assurance is prima facie correct.<sup>5</sup> Given reasonable assurance, it follows that Booth is not entitled to benefits, partial or full.<sup>6</sup> Section 8-909, by its own terms, is a limitation on the eligibility of certain employees of educational institutions, and Booth, as a part-time substitute teacher, is undeniably governed by it. During the 1992-1993 school year, Booth qualified for partial benefits under § 8-803(d) and was not disqualified by § 8-909. Once the school year ended and Booth no longer worked, § 8-803(d) no longer applied and he ceased to qualify for partial benefits. Had Booth's employment not been governed by § 8-909(a)(2), he might have qualified for full benefits; because the section controls, however, it specifically disqualifies him.

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<sup>5</sup>With respect to Booth's racial allegations, they are unsupported by competent evidence and irrelevant to the issue of reasonable assurance.

<sup>6</sup>According to the testimony and argument before this court, the parties indicated that Booth had been receiving partial unemployment benefits while he worked at EST until the end of the 1992-1993 school year.

In so doing, the statute gives Booth nothing more than those benefits to which a full-time member of the faculty would be entitled. See, e.g., Berland v. Emp't Security Dep't, 760 P.2d 959, 963 (Wash. App. 1988) (Although substitute teachers do not have the financial security of full-time staff, the unemployment of either group during a summer term "is not the type of unpredictable layoff that unemployment benefits are designed to redress. Though this result may seem unfair to some . . . this was a decision for the Legislature to make . . . and make it the Legislature did when the law was enacted."); Leissring v. Dep't of Industry, Labor & Human Resources, 340 N.W.2d 533 (Wis. 1983) (legislative history of federal counterpart indicates that the intent of the disqualification was to prevent subsidized summer vacations for teachers with a reasonable assurance of returning in the fall); see also, Goralski v. Unemp't Compensation Bd. of Rev., 408 A.2d 1178 (Pa. Commw. 1979); Davis v. Dep't of Emp't Svces., 481 A.2d 128 (D.C.App. 1984); Bd. of Educ. v. Unemp't Ins. Appeals Bd., 206 Cal. Rptr. 788, 795 (Cal. App. 1984); Slominski v. Emp't Div., 711 P.2d 215 (Or. App. 1985); Indianapolis Pub. Sch. v. Rev. Bd., 487 N.E.2d 1343 (Ind. App. 1986).

#### Conclusion

Based on the foregoing, it is, this 14<sup>th</sup> day of July, 1994, by the Circuit Court for Baltimore City, ORDERED that the decision of the Board as to reasonable assurance be, and the same hereby is, AFFIRMED. Costs to be paid by Appellant.

Ellen L. Hollander  
Judge Ellen L. Hollander

cc: Mr. Keith Booth  
Lynn Weiskittel, Assistant Attorney General

JUL 18 1994

KEITH E. BOOTH	*	IN THE
Appellant,	*	CIRCUIT COURT
v.	*	FOR
EMERGENCY SUB TEACHER	*	BALTIMORE CITY
and	*	#93330026/CL173161
BOARD OF APPEALS,	*	
DEPARTMENT OF ECONOMIC	*	
AND EMPLOYMENT DEVELOPMENT,	*	
Appellees.	*	
	*	
	*	
	*	
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**MEMORANDUM IN SUPPORT OF THE BOARD OF APPEALS**

I. Introduction

The Board of Appeals, (the "Board"), Department of Economic and Employment Development, ("DEED"), an Appellee herein, files this Memorandum in support of its decision.

Pursuant to the Maryland Labor and Employment Article, §8-909, the Board found that Keith E. Booth, (the "Claimant"), was not entitled to unemployment compensation during the summer of 1993 because he was employed as a substitute teacher during the 1992-93 academic year, and he had a reasonable assurance that he would work in an instructional capacity in the fall of 1993.<sup>1</sup> Claimant appealed that decision to this Court.

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<sup>1</sup>Unless otherwise indicated, all statutory references are to Title 8 of the Labor and Employment Article of the Maryland Annotated Code.

The factual findings made by the Board are supported by substantial evidence in the administrative record, and the Board made no errors of law. Therefore, the Board's decision should be affirmed.

## II. Scope of Review

Judicial review of the administrative adjudication of unemployment insurance appeals is governed by §8-512. Findings of fact made by the Board are binding upon this Court if there is substantial evidence in the record to support them. Section 8-512(d); Board of Educ. v. Paynter, 303 Md. 22, 491 A.2d 1186 (1985). This Court may only determine if reasoning minds could reach the same conclusion from the facts and permissible inferences in the record before the Board. Baltimore Lutheran High School Association, Inc. v. Employment Security Administration, 302 Md. 649, 490 A.2d 701 (1985); Ramsay Scarlett & Co., Inc. v. Comptroller of the Treasury, 302 Md. 825, 490 A.2d 1296 (1985). If the Board's conclusion could be reached by reasoning minds, this Court has no power to reject it, even if the Court would conclude differently after its review of the record.<sup>2</sup> Paynter, 303 Md. at 35, 491 A.2d at 1193; Baltimore Lutheran, 302 Md. at 662, 490 A.2d at 707.

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<sup>2</sup>A remand for further factfinding is appropriate only after the circuit court reviews the record for substantial evidence and finds it lacking. Department of Economic and Employment Dev. v. Hager, 96 Md. App. 362, 625 A.2d 342 (1993); Juliano v. Lion's Manor Nursing Home, 62 Md. App. 145, 488 A.2d 538 (1985).

City Council, 72 Md. App. 427, 530 A.2d 763 (1987). When faced with conflicting inferences, ". . .it is for the referee to draw the inference, not the reviewing court." Paynter, 303 Md. at 36, 491 A.2d at 1195. "Furthermore, not only is it the province of the agency to resolve conflicting evidence, but where inconsistent inferences from the same evidence can be drawn, it is for the agency to draw the inference." Baltimore Lutheran, 302 Md. at 663, 490 A.2d at 708.

Because the administrative findings in this case are supported by substantial evidence in the administrative record and the legal conclusion is reasonable, the Board's decision should be affirmed.

### III. Statement of Facts

During the 1992-93 school year, Claimant was employed as a substitute teacher and worked when there was a vacancy at one of the two high schools that he had chosen to work for when he was initially hired (R.23-24,32,39-40). Claimant was an active substitute throughout the 1992-93 school year, was not discharged or told that he could not return to his position as a substitute teacher, and was still eligible for employment as a substitute teacher in the fall of 1993 (R.25,32,38).

During the summer of 1993, Claimant was not called to work as a substitute teacher due to the school recess for summer vacation. Claimant was, however, placed on the Employer's substitute eligibility list for the 1993-94 school year, confirming that Claimant was eligible to return to work for the successive school term (R.25,44). Generated July 16, 1993, the list was intended to establish reasonable assurance that substitute teachers would return to work in the fall of 1993 (R.25-26).

A DEED Claims Examiner determined that Claimant was ineligible for unemployment compensation because he had a reasonable assurance that he would return to his employment in the fall of 1993 (R.7). Claimant appealed (R.11), and a full evidentiary hearing was held on August 3, 1993 (R.20-45). The Hearing Examiner affirmed, concluding that the Employer's "eligibility substitute teacher employment list for the 1993-94 school year confirms that Claimant ha[d] a reasonable assurance for the return to work during that season." (R.46-48). Claimant appealed (R.50), and the Board affirmed, adopting the findings of fact and conclusions of law of the Hearing Examiner (R.57-58). Subsequently, Claimant appealed to this Court.

IV. The Board's decision that Claimant had a reasonable assurance of working in an instructional capacity during the 1993-94 academic year is supported by substantial evidence in the administrative record and is correct as a matter of law.

The Board determined that Claimant was ineligible for unemployment insurance benefits during the summer of 1993 pursuant to §8-909, which provides, in pertinent part:

(a) Employees in instructional, research, or principal administrative capacities. — An individual may not be paid benefits based on covered employment performed for an educational institution . . . in an instructional, principal administrative, or research capacity for any week of unemployment that begins: . . .

(2) during the period between 2 successive academic terms or years; . . . if:

(i) the individual performs the covered employment in the 1st term; and

(ii) there is a contract or reasonable assurance that the individual will work in an instructional, principal administrative, or research capacity for an educ-



ational institution in the 2nd term.<sup>3</sup>

The only issue before this Court is whether a reasoning mind considering the record evidence could reach the Board's conclusion that Claimant had a reasonable assurance of working in an instructional capacity during the 1993-94 school year.

Whether or not an individual has a "reasonable assurance" of continuing employment is a factual, employment-related issue that is within the particular expertise of the Board. Reviewing courts should be reluctant to second guess administrators in areas "especially within the expertise of the administrative officials administering the unemployment insurance law...". Barley v. Department of Employment Sec., 242 Md. 102, 106, 218 A.2d 24, 27 (1966). Section 8-512(d), which limits this Court's scope of review of the Board's decision, indicates that reviewing courts should defer to the Agency as long as its findings of fact are supported by substantial evidence and its legal conclusion is reasonable. The reviewing court, honoring the expertise of the Agency, must review the Board's determination in the light most favorable to the Agency, and the decision of the Board must be left undisturbed in the absence of an error of law. Baltimore Lutheran High School Assoc. v. Employment Sec. Admin., 302 Md. 649, 663-64, 490 A.2d 701, 708 (1985).

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<sup>3</sup>This form of §8-909 was in effect when Claimant initially applied for unemployment benefits in 1992. In 1993, §8-909 was repealed and enacted as a new section without a substantial change in the language. 1993 Md. Laws Ch. 192.

The Board did not err in this case. Although no Maryland appellate court has issued a decision defining "reasonable assurance", courts in other jurisdictions support the Board's determination, holding that a reasonable assurance does not constitute an absolute guarantee of employment and need not be a formal written or oral agreement to rehire. Board of Educ. of Philadelphia v. Unemployment Compensation Bd. of Review, 609 A.2d 596, 599 (Pa. Commw. 1992), appeal denied, 622 A.2d 1378 (Pa. 1993); Paynes v. Board of Educ., 388 N.W. 2d 358, 362 (Mich. App. 1986).

Rather, the term "contract or reasonable assurance" encompasses an implied agreement that the employee will perform services for the educational institution during the ensuing academic year. Garrison v. Department of Economic Sec., 750 P.2d 1370, 1373 (Ariz. App. 1988) (citing legislative history of the Federal Unemployment Tax Act, 26 U.S.C. §3304(a)(6)(A), upon which Maryland's §8-909 is based); Milkowski v. Department of Labor, 402 N.E. 2d 646, 648-49 (Ill. App. 1980); Ellman v. Unemployment Compensation Bd. of Review, 407 A.2d 478, 479 (Pa. Commw. 1979). In each of these cases, the court found that the claimants were not entitled to unemployment compensation due to the existence of a reasonable assurance/implied agreement for continuing work in the subsequent academic year.

In Ellman, the court found an implied agreement for the claimant's continued employment as a substitute teacher based on the fact that the claimant's name appeared on the school district's substitute list for the following school year. 407 A.2d at 479. In addition, the claimant

stated in her application for unemployment benefits that she expected to return to work in the following year. Id.

In Milkowski, the unemployment claimant had been a full-time teacher until 1976, when his position was changed to that of a substitute teacher. 402 N.E. 2d at 647. The claimant performed the duties of a substitute teacher for a year and in June, 1977, "he was not told to come back; nor was he told not to come back. In previous years, while he was a full-time teacher, he was always told in June that he was to come back in September." Id. Nevertheless, the court found that the claimant had an implied contract to return to work because he "ha[d] not resigned, ha[d] not retired and ha[d] not been terminated. Id. at 649. Clearly, the court determined that no express notification that an individual would be rehired was necessary to satisfy the reasonable assurance requirement.

The Supreme Court of Alaska so held in Allen v. Department of Labor, 658 P.2d 1342 (Alaska 1983). The Allen claimant was employed for three years as a bilingual instructional aide. Id. at 1342. She had no written contract with the school district and had to reapply for the position each year. Id. at 1343. At the end of the 1979-80 school year, the claimant received no indication that she would not be rehired; however, "she was not told one way or another about her reemployment until August 17, 1980, when she was asked if she could work the next day." Id. The court found that the claimant had a reasonable

assurance of continuing employment, even though she was not notified that she would be rehired.<sup>4</sup>

In the case at bar, Claimant was an active substitute teacher during the 1992-93 academic year (R.32). In May, 1993, Claimant worked steadily as a replacement for a teacher who was on long-term leave (R.37). At the end of the year, Claimant was not discharged and was not told that he could not return to work the following year -- Claimant was still eligible for employment as a substitute teacher (R.25,38). Finally, Claimant was placed on the Employer's substitute eligibility list in July, 1993 (R.25,44). These facts constitute substantial evidence from which the Board could reasonably conclude, as did the courts in Ellman, Milkowski, and Allen, that Claimant had a reasonable assurance of employment in the 1993-94 academic year. Because a reasoning mind could conclude as the Board did, the Board's decision should be affirmed.

Claimant argues, however, that he did not have a reasonable assurance of continuing employment due to the sporadic nature of his work. Claimant is wrong. The fact that substitute work is, by nature, uncertain is irrelevant to the issue of whether one has reasonable assurance of continuing employment. Rather, the "kernel of the issue is whether, despite the inherent uncertainties of the substitute-employment relationship, the parties in good faith expect that

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<sup>4</sup>The court also considered the claimant's past employment with the school district. Id. at 1345.

relationship to continue." Garrison, 750 P.2d at 1374(emphasis added). Indeed, the majority of courts conclude that teachers who are employed as part-time substitutes in one academic year and have a reasonable assurance of employment as substitutes in the subsequent year are not entitled to unemployment compensation during the intervening summer, despite the indefinite nature of the employment. See, e.g., Goralski v. Unemployment Compensation Bd. of Review, 408 A.2d 1178 (Pa. Commw. 1979)(substitute teacher who had reasonable assurance of continued employment as substitute was not eligible for benefits); Davis v. Department of Employment Servs., 481 A.2d 128 (D.C. App. 1984)(statute disqualifying teachers from summer benefits applied to part-time substitutes despite the indefinite nature of their employment); Board of Educ. v. Unemployment Insurance Appeals Bd., 206 Cal. Rptr. 788, 795 (Cal. App. 1984)(it would be a violation of the principle of "like pay for like services" if substitute teachers were eligible for benefits during the summer while full-time teachers were not); Slominski v. Employment Div., 711 P.2d 215 (Or. App. 1985)(substitute teaching in both year preceding and year succeeding summer recess will disqualify teacher from unemployment compensation, despite uncertainty as to quantity of work); Indianapolis Public Schools v. Review Bd., 487 N.E.2d 1343, 1345 (Ind. App. 1986)(substitute teacher was ineligible for unemployment compensation because the "character of his employment from one academic term to the next, [albeit indefinite, would] essentially remain the same"); Berland v. Employment Security Dep't, 760 P.2d 959, 963 (Wash. App. 1988)(While substitute teachers do not have the financial security of full-time teachers, their

unemployment during a summer recess "is not the type of unpredictable layoff that unemployment benefits are designed to redress. Though this result may seem unfair to some,.... this was a decision for the Legislature to make . . . , and make it the Legislature did when the law was enacted.").

Claimant also avers that the school system used him as a security guard at times rather than as a substitute teacher. Claimant did not testify to this at the DEED hearing — he said that he "was used very inappropriately in a lot of situations", but he did not elaborate (R.34-35). The Employer testified that Claimant was an active substitute for the 1992-93 school year, and even Claimant agreed that he acted as a substitute teacher (R.32,37,39-40). There is clearly substantial evidence to support the Board's finding that Claimant was a substitute teacher.<sup>5</sup>

Finally, Claimant argues that the Hearing Examiner did not allow him to raise relevant points during the hearing. During Claimant's cross-examination of the Employer's witness, the Hearing Examiner properly determined that one of Claimant's questions was irrelevant to both the issue in the case and the witness' prior testimony (R.29-30). The Hearing Examiner, charged with the responsibility of ascertaining the facts, has the discretion to determine whether a question or a line of questioning is relevant to the issue at hand or within the scope of

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<sup>5</sup>Even if there was not, however, §8-909's disqualification also extends to individuals performing services for educational institutions in a non-instructional capacity. See §8-909(b).

the witness' testimony. In this case, the Hearing Examiner reasonably determined that Claimant's question was not relevant to the issue of reasonable assurance and asked Claimant to move on to another question, which Claimant did. This, clearly, was not a denial of due process. Claimant had the opportunity to cross-examine the Employer's witness and to give full testimony before the Hearing Examiner.

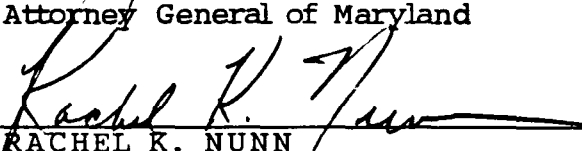
V. Conclusion

Section 8-909 excludes from unemployment compensation those who temporarily have no employment during a traditional school recess, but who have a reasonable assurance of returning at the end of the recess. Claimant was employed as a substitute teacher during the 1992-93 school year and had a reasonable assurance that he would return as a substitute teacher in the 1993-94 year.

WHEREFORE, for the foregoing reasons, the Board respectfully requests that its decision disqualifying Claimant from receiving unemployment compensation be affirmed.

Respectfully submitted,


J. JOSEPH CURRAN, JR.  
Attorney General of Maryland

  
RACHEL K. NUNN

Staff Attorney  
217 E. Redwood Street, 11th Floor  
Baltimore, Maryland 21202  
(410) 333-4813

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of June, 1994, a copy of the foregoing Memorandum in Support of the Board of Appeals was mailed, postage prepaid, to Keith E. Booth, 932 N. Collington Ave., Baltimore, MD 21205.

  
RACHEL K. NUNN



CASE NUMBER: 93330026 BOOTH VS BD. OF APPEALS CL173161  
CATEGORY: APPAA  
ORIG COURT: CL AMOUNT OF SUIT :\$ LAST PLEA DATE : 05/11/94  
DATE FILED: 11/26/93 TRANSCRIPT PAGES : TERMINATION DATE: 05/11/95  
STATUS: A CONSOLIDATED CASE: BOOK NUMBER :  
STATUS CODE: 01/17/93 PROTRACTED: PAGE NUMBER :  
WHO PAYS COSTS : WAIV  
LAST MODIFIED ON: 05/19/94

DATE	CODE	TIME	PART	ROOM	SCHED	ACTUAL	DISP	REAS	JUDGE	ID
06/20/94	CAL	09:30		219W	CTF					
11/26/93	FILE	PETITION	(1)							
11/17/94	PLEA	PETITIONER'S REQUEST FOR ORAL ARGUMENT	(2)							
02/28/94	ANSW	APP. OF ATTY LYNN M. WEISKITTEL FOR DEFT SAME DAY RESPONSE	FD.	(3)						
03/08/94	ANSW	APP. OF ATTY (WILLIAM E. PHELAN, JR) FOR DEFT. SAME DAY RESPONSE								
03/08/94		TO PETITION FD.	(4)							
03/17/94	PLEA	TRANSCRIPT OF RECORD	FD.	(5)						

NEXT PAGE P/N PAGE: 001  
CIRCUIT COURT FOR BALTIMORE CITY DATE: 06/08/94  
MSV523 CASE INQUIRY TIME: 08:25  
CASE NUMBER: 93330026 BOOTH VS BD. OF APPEALS CL173161

03/18/94 PLEA NOTICE SENT INACORDANCE TO MARYLAND RULE 7-207 (6)  
04/28/94 MOTN APP. OF LYNN M. WEISKITTEL, ATTY. FOR BD. OF APPEALS, SAME DAY  
04/28/94 MOT. TO DISMISS, AFFDT. AND PROPOSED ORDER FD. (7)  
05/11/94 PLEA KEITH E. BOOTH'S OPPOSITION OF MOT. TO DISMISS FD. (8)  
05/11/94 PLEA KEITH E. BOOTH'S MEMO. OF LAW FD. (9)  
05/18/94 CAL 09:30 219W CTF CANC CANC CAN ADMINISTRATIVE 8800  
06/20/94 PPSN SUMMONS SENT TO PARTIES REPRESENTED AS PROPER PERSON  
CONN NAME  
DEF \*BOARD OF APPEALS IDENT H14765  
1100 N. EUTAW ST.  
BALTIMORE MD 21201  
DEF \*MAYOR AND CITY COUNCIL OF BALTIMORE IDENT M33252  
NO ADDRESS ON RECORD

NEXT PAGE P/N PAGE: 002  
CIRCUIT COURT FOR BALTIMORE CITY DATE: 06/08/94  
MSV523 CASE INQUIRY TIME: 08:25  
CASE NUMBER: 93330026 BOOTH VS BD. OF APPEALS CL173161

ADF WEISKITTEL, LYNN IDENT 911960  
217 E. REDWOOD STREET PHONE 410 333-4813  
ROOM 1101 -- 11TH FLOOR  
BALTIMORE MD 21202  
ADF PHELAN, WILLIAM JR IDENT 465857  
LAW DEPT. CITY HALL PHONE 301 396-4094  
100 N. HOLLIDAY STREET SSN 220-46-5857  
BALTIMORE MD 21202  
PLA BOOTH, KEITH E IDENT A40587 PROPER PERSON  
932 N. COLLINGTON AVE. 301  
BALTIMORE MD 21205

END OF DISPLAY P/1 PAGE: 003

RESIDING JUDGE .....

COURTROOM CLERK .....

STENOGRAPHER .....

ASSIGNMENT MONDAY JUNE 20, 1994

CASE NUMBER - 94-1000  
CASE TITLE - FEDERAL GOVERNMENT OF APPEALS CL173161  
CATEGORY - APPEAL FROM ADMINISTRATIVE AGENCY  
SCHEDULING - COURT TRIAL - FAST TRACK

CL

WEISKITTEL, LYNN  
PHELAN, WILLIAM JR  
BOOTH, KEITH R

DEFENSE ATTORNEY  
DEFENSE ATTORNEY  
PLAINTIFF

333-4813  
396-4004

PROCEEDING: ( ) JURY ( ) NON-JURY ( ) OTHER

DISPOSITION ( )

( ) SETTLED ( ) CANNOT SETTLE ( )

( ) VERDICT ( ) REMANDED ( ) PROS/DISMISSED

( ) JUDGEMENT ( ) OTHER

( ) JUDGEMENT ABSOLUTE ( ) ORDER/DEC ( ) SIGNED

( ) POSTPONED ( )

( ) SUB CURIA ( )

PLEASE EXPLAIN:

JUDGE SIGNATURE

*Queen Hollander*

*7/14/94*

PRESIDING JUDGE .....

COURTROOM CLERK .....

STENOGRAPHER .....

ASSIGNMENT FOR MONDAY JUNE 20, 1994

NUMBER - 93330026  
CASE TITLE - BOOTH VS BD. OF APPEALS CL173161  
CATEGORY - APPEAL FROM ADMINISTRATIVE AGENCY  
PROCEEDING - COURT TRIAL - FAST TRACK

CL

WEISKITTEL, LYNN  
PHELAN, WILLIAM JR  
BOOTH, KEITH E

DEFENSE ATTORNEY  
DEFENSE ATTORNEY  
PLAINTIFF

333-4  
396-4

PROCEEDING: (\_\_\_ JURY) (\_\_\_ NON-JURY) (\_\_\_ OTHER)

DISPOSITION (CHECK ONE)

- (\_\_\_ SETTLED) (\_\_\_ CANNOT SETTLE) (\_\_\_ OTHER)
- (\_\_\_ VERDICT) (\_\_\_ REMANDED) (\_\_\_ NON PROS/DISMISSED)
- (\_\_\_ JUDGEMENT NISI) (\_\_\_  ORDER/DECREE SIGNED) (\_\_\_ OTHER) PLEASE EXPLAIN:
- (\_\_\_ JUDGEMENT ABSOLUTE) (\_\_\_ ORDER/DECREE SIGNED)
- (\_\_\_ POSTPONED) (\_\_\_ MOTION GRANTED)
- (\_\_\_ SUB CURIA) (\_\_\_ MOTION DENIED)

SIGNATURE

*[Handwritten Signature]*

DATE

*[Handwritten Date]*

ASSIGNING JUDGE .....

COURTROOM CLERK .....

STENOGRAPHER .....

ASSIGNMENT FOR MONDAY JUNE 20, 1994

0026

BOOTH VS BD. OF APPEALS CL173161  
CATEGORY - APPEAL FROM ADMINISTRATIVE AGENCY  
PROCEEDING - COURT TRIAL - FAST TRACK

CL

WEISKITTEL, LYNN  
PHELAN, WILLIAM JR  
BOOTH, KEITH E

DEFENSE ATTORNEY  
DEFENSE ATTORNEY  
PLAINTIFF

333-4  
396-4

PROCEEDING: ( ) JURY ( ) NON-JURY ( ) OTHER

( ) SETTLED ( ) CANNOT SETTLE ( )  
( ) VERDICT ( ) REMAILED ( ) NON PROS/OIS  
( ) JUDGEMENT ( ) DECREE SIGNED ( )  
( ) JUDGEMENT ABSOLUTE ( ) ORDER/DECRET ( ) PLEASE EXPLAIN:  
( ) POSTPONED ( ) MOTION GRANTED  
( )

NATURE \_\_\_\_\_ DATE \_\_\_\_\_

RESIDING JUDGE .....

COURTROOM CLERK .....

STENOGRAPHER .....

ASSIGNMENT FOR MONDAY JUNE 20, 1994

OR - 4  
- VS SD. OF APPEALS CL173161  
CATEGORY - APPEAL FROM ADMINISTRATIVE AGENCY  
PROCEEDING - COURT TRIAL - FAST TRACK

CL

WEISKITTEL, LYNN  
PHELAN, WILLIAM JR.  
BOOTH, KEITH E

DEFENSE ATTORNEY  
DEFENSE ATTORNEY  
PLAINTIFF

333-4813  
396-4094

TYPE OF PROCEEDING: (\_\_\_ JURY) (\_\_\_ NON-JURY) (\_\_\_ OTHER)

DISPOSITION (CHECK ONE)

- (\_\_\_ SETTLED) (\_\_\_ CANNOT SETTLE) (\_\_\_ NEXT COURT DATE)
- (\_\_\_ VERDICT) (\_\_\_ REMANDED) (\_\_\_ NON PROS/DISMISSED)
- (\_\_\_ JUDGEMENT NISI) (\_\_\_  ORDER/DECREE SIGNED) (\_\_\_ OTHER) PLEASE EXPLAIN:
- (\_\_\_ JUDGEMENT ABSOLUTE) (\_\_\_ ORDER/DECREE TO BE SIGNED)
- (\_\_\_ POSTPONED) (\_\_\_ MOTION GRANTED)
- (\_\_\_ SUPP) (\_\_\_ MOTION DENIED)

JUDGE SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

9

CIVIL DIVISION

Keith E. Booth \* In The Circuit Court of  
 \* Baltimore City  
 V. \* #93330026//CL173161  
 \* May 11, 1994  
 Emergency Substitute Teacher \*  
 \*\*\*\*\*

MEMORANDA OF LAW

I think I was unjustly denied unemployed benefits. I think the Baltimore City Public School System exploits the labor of talented citizens for its own narcissistic agenda of obtaining cheap labor and as a means of avoiding having to pay its citizens decent wages and fringe benefits. Specially, I think I was unjustly denied unemployment benefits in relations to the following below:

Exhibit 1 I indicated to Department of Economic and Employment Development (DEED) that I was not a teacher I had no interest in teaching in the public school system as a career. In addition, as mentioned that I was inappropriately used. For example, instead of being in some substitute teacher positions the assignments attempted to use me as a security in the school systems. I have no training to be a security nor did I make such an agreement with the Baltimore City Public School System's Office of Substitute Teachers. I never had reasonable assurance for a position throughout the temporary time with the school systems. I made it clear to everyone that I was continuing to seek full-time employment in other professional career in relations to my previous experiences. I had no contract with the school system.

Exhibit 3 I did not begin a substitute teacher assignment with the school system on August 27, 1992 as indicated by Deborah Young.

Exhibit 7 Unjustly denied benefits May 9, 1993 I had sporadic work that resulted in my having to apply for partial benefits. No assurance was available to me during period indicated.

Exhibit 11 I had no reasonable assurance of employment which resulted in appeal of this case.

Exhibit 12 Unjustly denied benefits no reasonable assurance which resulted in my having to apply for partial benefits.

Exhibit 22 Exhibit Mr Booth's comments thru top of page 23, I have not been given a full opportunity to present my argument that substantiate my dispute about reasonable assurance.

Exhibit 24 Work was constantly sporadic I would report for assignments and told nothing was available. In some instances I

*Keith E. Booth*

*ab*

called and was told nothing was available. (refer to my comments  
Page 2

Memoranda of Law  
#93330026//CL173161

in exhibit 24)

Exhibit 25 Mr Gentry indicated that a list was generated July 16, 1993 a copy sent to DEED. School was closed in July. No such list was produced during School years Further I also was awarded unemployment benefits during 1993 because I had sporadic work and no reasonable assurance of a position. Hearing Examiner asked me if I saw the document before? I never saw such a document. Further, the list was taken from a list of people who received paychecks. This does not factually reflect assurance of being employment. The document creates a distortion that does not necessarily present fact.

Exhibit 27 I have called the emergency substitute office and told no assignments. I had to call around personally for an assignment. Mr Gentry report is incorrect.

Exhibit 28 I was never given an orientation. No policy and procedures given to me.

Exhibit 28/29 I had no job description, no contract, I think this a very important to my argument of being inappropriately used. Mr Gentry stated not clear of work or job descriptions functions etc: He had difficulty discussing it. This need to be analyzed thoroughly in a higher court of law.

Exhibit 30 Information was censored the details of the points I was attempting to bring-out were cut-off by the hearing examiner in a prejudice manner. My questions were directly related to reasonable assurance. Either she did not want to understand my points or she did not comprehend. This resulted in prejudice and censored facts I was trying to make.

Exhibit 31 Mr Gentry had difficulty answering my second question. He also mentioned a documents but he did not produce the document on exhibit. I never received such a document.

Exhibit 32 Mr Gentry mentioned that all substitutes are not given orientation. I was not given the information and he could not confirm whether or not I had orientation.

Exhibit 33 Mr Gentry did not give correct information. He was present at other hearings pertaining to my filing for benefits.

Exhibit 34 Hearing Examiner completely ignored very fatal and significant comments made by me. She prejudice fatal information about substitute teacher that should be further discussed in a higher court of law.

*Keith E. Cook*

Exhibit 35/36

Page 3

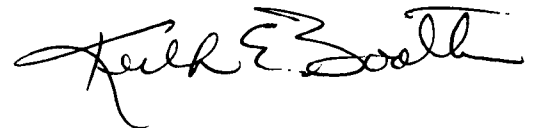
Memoranda of Law  
#93330026//C1173161

I worked approximately seven days throughout the month of May, 1993. During the month reassurance of work was unavailable.

Exhibit 37 I informed hearing examiner that person returned that he wasn't out a long time. It is totally discriminatory of the school system to attempt to rate my professional talent with that of a substitute teacher.

Exhibit 39 The hearing examiner censored what I really said regarding the student threatening my life. What I actually said was that the student said "I'll blow your ass away from here". I also was on the list of other school besides Douglass and Walbrook. I was not able to get assignments despite contacting agency.

Exhibit 44 The list is made-up from people that have received paychecks. However, this does not factually mean that a person will have a reasonable assurance.





G

CIRC

Keith E. Booth \* In the Circuit Court  
 \*  
 V. \* of for Baltimore City  
 \*  
 Emergency Substitute Teacher DIVISION # 93330026//CL173161  
 \* May 11, 1994  
 \*\*\*\*\*

Opposition of Motion to Dismiss

I Keith E. Booth plead to the Circuit Court for Baltimore City not to dismiss this case #93330026//CL173161 for the following reasons:

1) I have been away out-of-town and I have not been receiving my mail in a timely and appropriate manner.

2) My mail was being forwarded to me at a temporary location out-of-town via my parent who is elderly. However, a mistake occurred when elderly parent did not understand content of mail. This resulted in my not receiving mail

3) Address out of town was temporary and transient. Therefore, I had to rely on other means of receiving mail which resulted in delays and inconsistency.


I plead to the Circuit Court for Baltimore City not to dismiss this case (#93330026//CL173161) and that I be granted an opportunity to have my issues heard in it entirety.

*Keith E. Booth*

Keith E. Booth                   \*  
                                      \*  
                                      \*  
                                      \*  
                                      \*  
Emergency Substitute Teacher  
\*\*\*\*\*

In the Circuit Court for  
Baltimore City  
#93330026//CL173161

I Keith E. Booth on this 11th day of May, 1994 mailed a copy of Opposition of Motion to Dismiss and Memoranda of Law to the Office of the Attorney General of Maryland, Department of Economic and Employment Development, 217 East Redwood Street, Room 1101, Baltimore, Maryland 21202

  
\_\_\_\_\_  
Keith E. Booth

Note: Copy of envelop xerox attached:

~~Full Bath~~  
9327 Collington Avenue  
Fallmont, Maryland  
21205

CASE No # 933026/CL173161=



OFFICE OF THE ATTORNEY GENERAL  
OF Maryland  
Department of Economic and Employment Development  
217 EAST Redwood STREET Room 1101  
Baltimore, Maryland 21202

KEITH E. BOOTH

v.

EMERGENCY SUB TEACHER

and

BOARD OF APPEALS,  
DEPARTMENT OF ECONOMIC  
AND EMPLOYMENT DEVELOPMENT

RECEIVED  
CIRCUIT COURT FOR THE  
BALTIMORE CITY

1994 APR 28 A 9:49  
FOR

CIVIL DIVISION

CIRCUIT COURT

BALTIMORE CITY

#93330026/CL173161

7

MOTION TO DISMISS

The Board of Appeals (the "Board") of the Department of Economic and Employment Development ("DEED"), moves that this appeal be dismissed for the following reasons:

1. The appeal of a Board decision is governed by Title 7 of the Maryland Rules.
  2. Rule 7-207 provides that within thirty days after being notified by the Clerk that the record is filed, an Appellant shall file a Memorandum stating all issues raised on appeal with legal argument and citations and page references to the record that support the argument.
  3. At DEED's expense, a transcript of the evidentiary hearing was prepared and the record was assembled and transmitted to the Court on March 16, 1994.
  4. On March 18, 1994, the Clerk notified all parties that the record had been filed.
  5. At no charge to Appellant, DEED prepared and mailed a copy of the record to Appellant on March 16, 1994, with a letter explaining the requirements of Rule 7-207, including a copy of Rule 7-207, and warning Appellant that a Motion to Dismiss would be filed if Appellant failed to file the Memorandum. (Exhibit I.)
  6. To date, Appellant has not filed the Memorandum.
- WHEREFORE, the Board moves that this appeal be DISMISSED.

STATEMENT OF GROUNDS AND AUTHORITIES IN  
SUPPORT OF MOTION TO DISMISS

Dismissal is specifically mandated under Rule 7-207, if the memorandum is filed late and the late filing results in prejudice to the moving party. Certainly, where the memorandum is not merely late but is not filed at all, the parties and Court are prejudiced. Maryland courts have consistently held that the Maryland Rules of Procedure are ". . . not to be considered as mere guidelines or Heloise's helpful hints to the practice of law but rather precise rubrics that are to be read and followed. . ." Colonial Carpet v. Carpet Fair, 36 Md. App. 583, 374 A.2d 419, 421 (1977).

Rule 7-207 specifically requires the filing of a Memorandum within 30 days. The Court of Appeals stated in Gaetano v. Calvert County, 310 Md. 121, 527 A.2d 46 (1987), the purpose of Rule 7-207 is:

9


. . .to inform the opposing parties in the trial court of the issues involved in the case and the appellant's arguments on appeal, in sufficient time for the opposition to respond in kind and for the court to make an informed decision.

In Gaetano, the Court stated that the trial court must assess the consequences of an appellant's non-compliance before dismissing an administrative appeal. The Appellant's failure to file a Memorandum leaves the Board in the untenable position of having no opportunity to know and respond to Appellant's contentions on appeal, prior to hearing. Also, this Court is placed in the position of having to decide this administrative appeal without benefit of prehearing briefs, which any Court acting in an appellate capacity might expect.

Under similar circumstances, the Court of Special Appeals has sanctioned dismissal for failure to comply with Rule 7-206. In Jacober v. High Hill Realty, Inc., 22 Md. App. 115, 321 A.2d 838 (1974), although there was no specific sanction mandated for failure to transmit the administrative record as required by Rule 7-206, the Court dismissed the appeal because Appellant failed to comply.

Failure to comply with rules of procedure generally results in dismissal. See, Federal Bank of Baltimore v. Esham, 33 Md. App. 446, 406 A.2d 928 (1979).

Respectfully submitted,  
J. JOSEPH CURRAN, JR.  
Attorney General of Maryland

9/11/96  
  
LYNN M. WEISKITTEL  
Assistant Attorney General  
217 E. Redwood St. - 11th Floor  
Baltimore, Maryland 21202  
(410) 333-4813

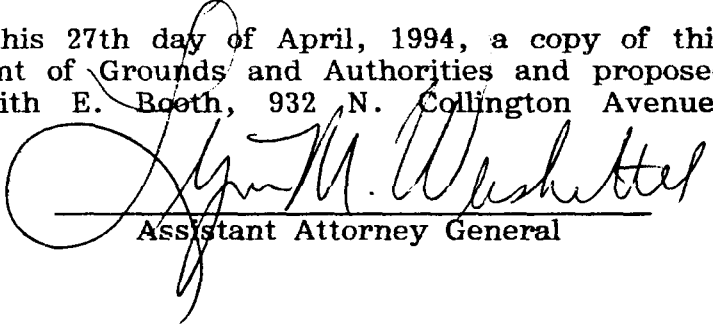
**AFFIDAVIT**

I affirm, under penalty of perjury, that the foregoing is true to the best of my knowledge, information and belief.

  
Assistant Attorney General

**CERTIFICATE OF SERVICE**

I CERTIFY that on this 27th day of April, 1994, a copy of this Motion, Affidavit, Statement of Grounds and Authorities and proposed Order was mailed to Keith E. Booth, 932 N. Collington Avenue, Baltimore, MD 21205.

  
Assistant Attorney General



# Maryland

## Department of Economic & Employment Development

217 EAST REDWOOD STREET - ROOM 1101  
BALTIMORE, MARYLAND 21222

Exhibit I

March 16, 1994

Keith E. Booth  
932 N. Collington Avenue  
Baltimore, MD 21205

RE: Booth v. Emergency Sub Teacher & Board of Appeals, DEED,  
Baltimore City, Civil Action No. 93330026/CL173161

Dear Mr. Booth:

Because you filed an appeal, the Department of Economic and Employment Development ("DEED") prepared, at no cost to you, the Record of the administrative proceedings concerning your application for unemployment insurance benefits. The Record contains all documents relevant to your case and probably includes a transcript of the agency hearing. Today DEED mailed a certified copy of the Record to the Clerk of the Circuit Court and a copy to you.

The Clerk of the Court will notify you when the Record has been filed. Within 30 days after the Clerk notifies you that the Record has been filed, Maryland Rule 7-207 **REQUIRES** that you file a Memorandum that sets forth the reasons and legal basis for your appeal. You may find your copy of the Administrative Record helpful when preparing your Memorandum. You **MUST** file the Memorandum stating why you believe the agency's decision was wrong. If you fail to file the Memorandum, DEED will file a Motion to Dismiss your appeal. To file your Memorandum, you may either mail it or take it to the Clerk's Office in the Circuit Court just as you did with your Order for Appeal. A COPY of the Memorandum and anything else you file in court MUST be sent to this office.

You may wish to discuss your case with a private attorney or with Legal Aid. **ANY INQUIRY ABOUT THE STATUS OF THIS APPEAL SHOULD BE MADE TO THE CLERK OF THE CIRCUIT COURT.**

Enclosures: Administrative Record  
Rule 7-207

cc: Sandra E. Banks, Clerk: Please file the attached copy of the Record.

Rule 7-207. MEMORANDA

(a) Generally

Within 30 days after the clerk sends notice of the filing of the record, a petitioner shall file a memorandum setting forth a concise statement of the questions presented for review, a statement of facts material to those questions, and argument on each question, including citations of authority and references to pages of the record and exhibits relied on. Within 30 days after service of the memorandum, any person who has filed a response, including the agency when entitled by law to be a party to the action, may file an answering memorandum in similar form. The petitioner may file a reply memorandum within 15 days after service of an answering memorandum. Except with the permission of the court, a memorandum shall not exceed 35 pages. In an action involving more than one petitioner or responding party, any petitioner or responding party may adopt by reference any part of the memorandum of another.

(b) When Not Required

Memoranda are not required in an action for judicial review of a decision of the Workers' Compensation Commission or in any other action where the review is de novo.

(c) Modification of Time Requirements

The time for filing a memorandum may be shortened or extended by (1) stipulation of the parties filed with the clerk so long as the first memorandum and any answering memorandum are filed at least 30 days, and any reply memorandum is filed at least ten days, before the scheduled hearing, or (2) order of the court entered pursuant to Rule 1-204.

(d) Sanctions for Late Filing of Memoranda

If a petitioner fails to file a memorandum within the time prescribed by this Rule, the court may dismiss the action if it finds that the failure to file or the late filing caused prejudice to the moving party. A person who has filed a response but who fails to file an answering memorandum within the time prescribed by this Rule may not present argument except with the permission of the court.

Committee note: The Committee intends that all issues and allegations of error be raised in the memoranda, and that ordinarily an issue not raised in a memorandum should not be entertained at argument. The Committee does not intend to preclude a person who has filed a preliminary motion, but not an answering memorandum, from arguing the issues raised in the preliminary motion.

Cross reference: *Gastano v. Calvert County*, 310 Md. 121 (1987).

Source: This Rule is in part derived from former Rule B12 and in part new.

J. JOSEPH CURRAN, JR.

Attorney General

RALPH S. TYLER, III

Deputy Attorney General

NORMAN E. PARKER, JR.

Assistant Attorney General

Counsel to the Department

LAILA K. ATALLAH

Assistant Attorney General

Deputy Counsel to the Department

OFFICES OF  
THE ATTORNEY GENERAL



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STATE OF MARYLAND  
DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT  
217 EAST REDWOOD STREET — ROOM 1101  
BALTIMORE, MARYLAND 21202

*April 27, 1994*

Dear Appellant:

The Office of the Attorney General has filed the enclosed Motion to Dismiss with the Circuit Court in your unemployment insurance case. This motion simply requests the court to dismiss the case; **the motion does not dismiss the case.** Only if the court issues an order to dismiss will your case be dismissed.

The Office filed this motion because you have not filed the memorandum of law required by Rule 7-207 of the Maryland Rules of Procedure (Enclosed are the Maryland Rules). This requirement was described in the letter we sent to you earlier with a copy of Rule 7-207.

You may oppose this motion by filing a written opposition with the court no later than 15 days from now. You may file the memorandum of law required by Rule 7-207. **Be sure to send this Office copies of any paper you file in court.**

You may wish to discuss your case with a private attorney or with Legal Aid. This Office is seeking to have your case dismissed so we cannot offer you legal guidance.

OFFICE OF THE ATTORNEY GENERAL  
OF MARYLAND

Enclosures: Motion to Dismiss  
Maryland Rules of Procedure

cc: Clerk of Court



**MARYLAND RULES OF PROCEDURE**

**TITLE 7  
APPELLATE AND OTHER JUDICIAL REVIEW IN CIRCUIT COURT**

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- (a) Generally
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- (c) Additional Evidence

**Rule 7-209. DISPOSITION**

**Rule 7-210. RETURN OF AGENCY RECORD**

**Rule 7-201. GENERAL PROVISIONS**

- (a) Applicability

The rules in this Chapter govern actions for judicial review of an order or action of an administrative agency, where judicial review is authorized by statute.

- (b) Definition

As used in this Chapter, "administrative agency" means any agency, board, department, district, commission, authority, commissioner, official, the Maryland Tax Court, or other unit of the State or of a political subdivision of the State.

Committee note: Regarding the inherent power of a court, in the absence of a statute authorizing judicial review, to review actions by an administrative agency that are arbitrary, illegal, capricious, or deny a litigant some fundamental right, see *Criminal Injuries Compensation Board v. Gould*, 273 Md. 486, 501 (1975), *Board of Education of Prince Georges County v. Secretary of Personnel*, 317 Md. 34, 44 (1989), and *Silverman v. Maryland Deposit Insurance Fund*, 317 Md. 306, 323-326 (1989).

Source: This Rule is derived from former Rule B1.

**Rule 7-202. METHOD OF SECURING REVIEW**

- (a) By Petition

A person seeking judicial review under this chapter shall file a petition for judicial review in a circuit court authorized to provide the review.

- (b) Caption

The Petition shall be captioned as follows:

IN THE CIRCUIT COURT FOR \_\_\_\_\_

PETITION OF \_\_\_\_\_

[name and address]

FOR JUDICIAL REVIEW OF THE DECISION OF THE

\_\_\_\_\_

[name and address of administrative agency]

IN THE CASE OF \_\_\_\_\_

[caption of agency proceeding, including agency case number]

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

CIVIL  
ACTION  
No. \_\_\_\_\_

- (c) Contents of Petition

The petition shall request judicial review, identify the or-

der or action of which review is sought, and state whether the petitioner was a party to the agency proceeding. If the peti-

tioner was not a party, the petition shall state the basis of the petitioner's standing to seek judicial review. No other allegations are necessary.

Committee note: The petition is in the nature of a notice of appeal. The grounds for judicial review, required by former Rule B2 e to be stated in the petition, are now to be set forth in the memorandum filed pursuant to Rule 7-207.

(d) Copies; Filing

(1) Notice to Agency

Upon filing the petition, the petitioner shall deliver to the clerk a copy of the petition for each agency named in the caption. The clerk shall promptly mail a copy of the petition to each agency, informing the agency of the date the petition was filed and the civil action number assigned to the action for judicial review.

(2) By Agency to Other Parties

Unless otherwise ordered by the court, the agency, upon receiving the copy of the petition from the clerk, shall give written notice promptly by ordinary mail to all parties to the agency proceeding that:

(A) a petition for judicial review has been filed, the date of the filing, the name of the court, and the civil action number; and

(B) a party wishing to oppose the petition must file a response within 30 days after the date the agency's notice was mailed unless the court shortens or extends the time.

(e) Certificate of Compliance

Within five days after mailing, the agency shall file with the clerk a certificate of compliance with section (d) of this Rule, showing the date the agency's notice was mailed and the names and addresses of the persons to whom it was mailed. Failure to file the certificate of compliance does not affect the validity of the agency's notice.

Source: This Rule is derived from former Rule B2.

### Rule 7-203. TIME FOR FILING ACTION

(a) Generally

Except as otherwise provided in this Rule or by statute, a petition for judicial review shall be filed within 30 days after the latest of:

(1) the date of the order or action of which review is sought;

(2) the date the administrative agency sent notice of the order or action to the petitioner, if notice was required by law to be sent to the petitioner; or

(3) the date the petitioner received notice of the agency's order or action, if notice was required by law to be received by the petitioner.

(b) Petition by Other Party

If one party files a timely petition, any other person may file a petition within 10 days after the date the agency mailed notice of the filing of the first petition, or within the period set forth in section (a), whichever is later.

Committee note: The provisions of former Rule B4 concerning the shortening and extending of time are not carried forward. The time for initiating an action for judicial review is in the nature of a statute of limitations, which must be specifically raised either by preliminary motion under Rule 7-204 or in the answering memorandum filed pursuant to Rule 7-207.

Source: This Rule is derived from former Rule B4.

### Rule 7-204. RESPONSE TO PETITION

(a) Who May File; Contents

Any person, including the agency, who is entitled by law to be a party and who wishes to participate as a party shall file a response to the petition. The response shall state the intent

to participate in the action for judicial review. No other allegations are necessary.

(b) Preliminary Motion

A person may file with the response a preliminary motion addressed to standing, venue, timeliness of filing, or any other matter that would defeat a petitioner's right to judicial review. Except for venue, failure to file a preliminary motion does not constitute waiver of an issue. A preliminary motion shall be served upon the petitioner and the agency.

Committee note: The filing of a preliminary motion does not result in an automatic extension of the time to transmit the record. The agency or party seeking the extension must file a motion under Rule 7-206 (d).

(c) Time for Filing Response; Service

A response shall be filed within 30 days after the date the agency mails notice of the filing of the petition unless the court shortens or extends the time. The response need be served only on the petitioner, and shall be served in the manner prescribed by Rule 1-321.

Source: This Rule is derived from former Rule B9.

### Rule 7-205. STAYS

The filing of a petition does not stay the order or action of the administrative agency. Upon motion and after hearing, the court may grant a stay, unless prohibited by law, upon the conditions as to bond or otherwise that the court considers proper.

Cross reference: Title 1, Chapter 400: Code, Labor and Employment Article, §9-741.

Committee note: This Rule does not affect any power an agency may have to stay its own order pending judicial review.

Source: This Rule is derived from former Rule B6 a.

### Rule 7-206. RECORD

(a) Contents; Expense of Transcript

The record shall include the transcript of testimony and all exhibits and other papers filed in the agency proceeding, except those papers the parties agree or the court directs may be omitted by written stipulation or order included in the record. If the testimony has been recorded but not transcribed before the filing of the petition for judicial review, the first petitioner, if required by the agency and unless otherwise ordered by the court or provided by law, shall pay the expense of transcription, which shall be taxed as costs and apportioned as the court directs.

(b) Statement in Lieu of Record

If the parties agree that the questions presented by the action for judicial review can be determined without an examination of the entire record, they may sign and, upon approval by the agency, file a statement showing how the questions arose and were decided and setting forth only those facts or allegations that are essential to a decision of the questions. The parties are strongly encouraged to agree to such a statement. The statement, any exhibits to it, the agency's order of which review is sought, and any opinion of the agency shall constitute the record in the action for judicial review.

(c) Time for Transmitting

Except as otherwise provided by this Rule, the agency shall transmit to the clerk of the circuit court the original or a certified copy of the record of its proceedings within 60 days after the agency receives the first petition for judicial review.

(d) Shortening or Extending the Time

Upon motion by the agency or any party, the court may shorten or extend the time for transmittal of the record. The court may extend the time for no more than an additional 60 days. The action shall be dismissed if the record has not been transmitted within the time prescribed unless the court finds

that the inability to transmit the record was caused by the act or omission of the agency, a stenographer, or a person other than the moving party.

(e) Duty of Clerk

Upon the filing of the record, the clerk shall notify the parties of the date that the record was filed.

Committee note: Code, Article 2B, §175 (e)(3) provides that the decision of a local liquor board shall be affirmed, modified, or reversed by the court within 90 days after the record has been filed, unless the time is "extended by the court for good cause."

Source: This Rule is in part derived from former Rule B7 and in part new.

### Rule 7-207. MEMORANDA

(a) Generally

Within 30 days after the clerk sends notice of the filing of the record, a petitioner shall file a memorandum setting forth a concise statement of the questions presented for review, a statement of facts material to those questions, and argument on each question, including citations of authority and references to pages of the record and exhibits relied on. Within 30 days after service of the memorandum, any person who has filed a response, including the agency when entitled by law to be a party to the action, may file an answering memorandum in similar form. The petitioner may file a reply memorandum within 15 days after service of an answering memorandum. Except with the permission of the court, a memorandum shall not exceed 35 pages. In an action involving more than one petitioner or responding party, any petitioner or responding party may adopt by reference any part of the memorandum of another.

(b) When Not Required

Memoranda are not required in an action for judicial review of a decision of the Workers' Compensation Commission or in any other action where the review is *de novo*.

(c) Modification of Time Requirements

The time for filing a memorandum may be shortened or extended by (1) stipulation of the parties filed with the clerk so long as the first memorandum and any answering memorandum are filed at least 30 days, and any reply memorandum is filed at least ten days, before the scheduled hearing, or (2) order of the court entered pursuant to Rule 1-204.

(d) Sanctions for Late Filing of Memoranda

If a petitioner fails to file a memorandum within the time prescribed by this Rule, the court may dismiss the action if it finds that the failure to file or the late filing caused prejudice to the moving party. A person who has filed a response but who fails to file an answering memorandum within the time prescribed by this Rule may not present argument except with the permission of the court.

Committee note: The Committee intends that all issues and allegations of error be raised in the memoranda, and that ordinarily an issue not raised in a memorandum should not be entertained at argument. The Committee does not intend to preclude a person who has filed a preliminary motion, but not an answering memorandum, from arguing the issues raised in the preliminary motion.

Cross reference: *Gastano v. Calvert County*, 310 Md. 121 (1987).

Source: This Rule is in part derived from former Rule B12 and in part new.

### Rule 7-208. HEARING

(a) Generally

Unless a hearing is waived in writing by the parties, the court shall hold a hearing.

(b) Scheduling

Upon the filing of the record pursuant to Rule 7-206, a

date shall be set for the hearing on the merits. Unless otherwise ordered by the court or required by law, the hearing shall be no earlier than 90 days from the date the record was filed.

(c) Additional Evidence

Additional evidence in support of or against the agency's decision is not allowed unless permitted by law.

Cross reference: Where a right to a jury trial exists, see Rule 2-325 (d).

Source: This Rule is in part derived from former Rules B10 and B11 and in part new.

### Rule 7-209. DISPOSITION

Unless otherwise provided by law, the court may dismiss the action for judicial review or may affirm, reverse, or modify the agency's order or action, remand the action to the agency for further proceedings, or an appropriate combination of the above.

Source: This Rule is derived from former Rule B13.

### Rule 7-210. RETURN OF AGENCY RECORD

After the time for seeking appellate review has expired, if no appellate review has been sought, the clerk shall return the record of the agency proceeding to the agency. If appellate review has been sought, the clerk, unless otherwise ordered by the appellate court, shall return the record of the agency proceedings to the agency upon the conclusion of the appellate review.

Source: This Rule is new.

# The Judiciary

## STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

### NOTICE OF PROPOSED RULES CHANGES

The Rules Committee has submitted its One Hundred Twenty-Fourth Report to the Court of Appeals, transmitting thereby a number of rules changes pertaining to management of civil litigation in the circuit courts, including proposed new Rule 2-403, proposed amendments to Rules 1-341, 2-401, 2-402, 2-411, 2-421, 2-422, 2-504, 2-507, 1211, and other miscellaneous amendments to the Maryland Rules of Procedure that the Committee has recommended be adopted by the Court. The Committee's One Hundred Twenty-Fourth Report and the proposed new Rule and amendments are set forth below.

Interested persons are asked to consider the Committee's Report and proposed rules changes, and to forward on or before May 17, 1993 any written comments they may wish to make to Una M. Perez, Esq. Reporter, Rules Committee Room 1517 100 Community Place Crownsville, Maryland 21032-2030

ALEXANDER L. CUMMINGS  
Clerk  
Court of Appeals of Maryland

March 24, 1993

### ONE HUNDRED TWENTY-FOURTH REPORT OF THE STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

The Honorable Robert C. Murphy, Chief Judge  
The Honorable John C. Eldridge  
The Honorable Lawrence F. Rodowsky  
The Honorable John F. McAuliffe  
The Honorable Howard S. Chasanow  
The Honorable Robert L. Karwacki  
The Honorable Robert M. Bell.

Associate Judges The Court of Appeals of Maryland  
The Courts of Appeal Building  
Annapolis, Maryland 21401

Your Honors:

The Rules Committee submits this, its One Hundred Twenty Fourth Report, and recommends that the Court adopt the new rule and amendments to existing rules transmitted with it: [Deleted - see Maryland Register, Vol. 20, Issue 8, Friday, April 16, 1993, page 670 et seq.]

### RULES ORDER

This Court's Standing Committee on Rules of Practice and Procedure having submitted its One Hundred Twenty-Second Report to the Court recommending rescission of current Chapter 1100, Subtitle B, Chapter 1100, Subtitle K, and Chapter 1300 of the Maryland Rules of Procedure, the adoption of certain proposed Rules (Title 7) in substitution therefor, and the adoption of certain amendments to Rules 8-207, 8-413, 8-501, 8-602, 8-605, 8-607, 3-602, 3-632, 1-204, and 1-101, all as set forth in that Report published in the Maryland Register, Vol. 19, Issue 26, pages 2266-2281 (December 23, 1992); and

This Court having considered at an open meeting, notice of which was posted as prescribed by law, all those proposed rules changes, together with the comments received, and having on its own motion amended certain of the proposed rules, it is this 30th day of March, 1993

ORDERED, by the Court of Appeals of Maryland, that Chapter 1100, Subtitle B, Chapter 1100, Subtitle K, and Chapter 1300 of the Maryland Rules be, and they are hereby, rescinded effective July 1, 1993; and it is further

ORDERED, that in substitution for the rules hereby rescinded, Title 7 of the Maryland Rules, Appellate and Other Judicial Review in Circuit Court, be, and they are hereby, adopted in the form attached to this Order; and it is further

ORDERED, that the proposed amendments to Rules 8-207, 8-413, 8-501, 8-602, 8-605, 8-607, 3-602, 3-632, 1-204, and 1-101 be, and they are hereby, adopted in the form attached to this Order; and it is further

ORDERED, that the rules changes hereby adopted by this Court shall govern the courts of this State and all parties and their attorneys in all actions and proceedings, and shall take effect and apply to all actions and appellate proceedings commenced on or after July 1, 1993 and insofar as practicable, to all actions then pending; and it is further

ORDERED, that a copy of this Order be published in the next issue of the Maryland Register.

Robert C. Murphy  
John C. Eldridge  
Lawrence F. Rodowsky  
John F. McAuliffe  
Howard S. Chasanow  
Robert L. Karwacki  
Robert M. Bell

Filed: March 30, 1993

ALEXANDER L. CUMMINGS  
Clerk  
Court of Appeals of Maryland

KEITH E. BOOTH

v.

EMERGENCY SUB TEACHER

and

BOARD OF APPEALS,  
DEPARTMENT OF ECONOMIC  
AND EMPLOYMENT DEVELOPMENT

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* #93330026/CL173161  
\*  
\*

\* \* \* \* \*

ORDER OF COURT

No cause to the contrary having been shown, it is this \_\_\_\_ day of \_\_\_\_\_, 1994 by the Circuit Court for Baltimore City  
ORDERED:

1. That the foregoing Motion to Dismiss be, and the same is hereby granted, with prejudice, for failure to file a Memorandum on appeal as required by Rule 7-207, and

2. That all court costs be waived.

\_\_\_\_\_  
JUDGE

 **Maryland**  
Department of Economic &  
Employment Development

217 EAST REDWOOD STREET - ROOM 1101  
BALTIMORE, MARYLAND 21202

RECEIVED  
CIRCUIT COURT FOR  
BALTIMORE CITY

1994 MAR 17 A 9:01

CIVIL DIVISION

March 16, 1994

Keith E. Booth  
932 N. Collington Avenue  
Baltimore, MD 21205

RE: Booth v. Emergency Sub Teacher & Board of Appeals, DEED,  
Baltimore City, Civil Action No. 93330026/CL173161

Dear Mr. Booth:

Because you filed an appeal, the Department of Economic and Employment Development ("DEED") prepared, at no cost to you, the Record of the administrative proceedings concerning your application for unemployment insurance benefits. The Record contains all documents relevant to your case and probably includes a transcript of the agency hearing. Today DEED mailed a certified copy of the Record to the Clerk of the Circuit Court and a copy to you.

The Clerk of the Court will notify you when the Record has been filed. Within 30 days after the Clerk notifies you that the Record has been filed, Maryland Rule 7-207 **REQUIRES** that you file a Memorandum that sets forth the reasons and legal basis for your appeal. You may find your copy of the Administrative Record helpful when preparing your Memorandum. You **MUST** file the Memorandum stating why you believe the agency's decision was wrong. If you fail to file the Memorandum, DEED will file a Motion to Dismiss your appeal. To file your Memorandum, you may either mail it or take it to the Clerk's Office in the Circuit Court just as you did with your Order for Appeal. **A COPY of the Memorandum and anything else you file in court MUST be sent to this office.**

You may wish to discuss your case with a private attorney or with Legal Aid. **ANY INQUIRY ABOUT THE STATUS OF THIS APPEAL SHOULD BE MADE TO THE CLERK OF THE CIRCUIT COURT.**

Enclosures: Administrative Record  
Rule 7-207

cc: Sandra E. Banks, Clerk: Please file the attached copy of the Record.

Rule 7-207. MEMORANDA

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Within 30 days after the clerk sends notice of the filing of the record, a petitioner shall file a memorandum setting forth a concise statement of the questions presented for review, a statement of facts material to those questions, and argument on each question, including citations of authority and references to pages of the record and exhibits relied on. Within 30 days after service of the memorandum, any person who has filed a response, including the agency when entitled by law to be a party to the action, may file an answering memorandum in similar form. The petitioner may file a reply memorandum within 15 days after service of an answering memorandum. Except with the permission of the court, a memorandum shall not exceed 35 pages. In an action involving more than one petitioner or responding party, any petitioner or responding party may adopt by reference any part of the memorandum of another.

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Cross reference: Gastano v. Calvert County, 310 Md. 121 (1987).

Source: This Rule is in part derived from former Rule B12 and in part new.

KEITH E. BOOTH

v.

EMERGENCY SUB TEACHER

and

BOARD OF APPEALS  
Department of Economic and  
Employment Development

: IN THE  
: CIRCUIT COURT  
: FOR  
: BALTIMORE COUNTY  
: Civil Action No.  
93330026/CL173161

RECORD BEFORE THE  
DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT  
BOARD OF APPEALS



 **Maryland**  
Department of Economic &  
Employment Development

217 EAST REDWOOD STREET — ROOM 1101  
BALTIMORE, MARYLAND 21202

KEITH E. BOOTH	:	RECORD BEFORE THE
vs.	:	DEPARTMENT OF
EMERGENCY SUB TEACHER	:	ECONOMIC AND EMPLOYMENT
and	:	DEVELOPMENT
BOARD OF APPEALS	:	APPEAL NO. 9314425
Department of Economic and Employment Development		

THIS IS TO CERTIFY that, to the best of my knowledge, the following is a true copy of documents and papers, and transcript of testimony taken in the matter, together with findings of fact and decisions therein, this 16<sup>th</sup> day of March, 1994.

STATE OF MARYLAND  
DEPARTMENT OF ECONOMIC & EMPLOYMENT DEVELOPMENT

BY: Alice M. Brozden

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STATE OF MARYLAND  
DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT  
OFFICE OF UNEMPLOYMENT INSURANCE

AGI

FACT FINDING REPORT

Claim Cert Filed

Date Conducted: 6/28/93  
Claimant's Name: Keith South  
Social Security Number: 219-58-4423  
Effective Date: 7-21-92  
Occupation: \_\_\_\_\_  
 Unresolved Issue (H02)  
 Create and Resolve Issue (H03)  
 Redetermination/Corrected Determination (H05)  
Issue: EST

CLAIMANT'S STATEMENT

Claimant present? YES  NO  If no, how contacted? \_\_\_\_\_  
FRO  SR6 Sent Date: \_\_\_\_\_ SR6 Returned? Yes  No   
Name of employer: EST  
FDW: 8-27-92 LDW: 6-11-93 Rate of Pay: \$ 45.00

I am not working as an emergency substitute teacher presently due to the normal school closing for the summer. I work on call at a rate of \$ 45.00 per day. I am going to substitute when school resumes in the fall of 1993. If I am not called then I will not return. Currently I am looking for fulltime employment.

I do not agree with above statement written by Claims Examiner in Above K.B. I am not working as an emergency substitute teacher presently due to no reasonable assurance of contract with school system. Further, I am not a teacher and I have been used inappropriately within the school system. I have been in classes without lesson plans and without a developed curriculum for the students. I've been inappropriately used as a search guard for students. Further, I've had been in classes with students that were not registered to be assigned to the classes. I was assigned temporarily.

Are you able, available and actively seeking full-time work? YES  NO  If no, explain. If yes, list recent contacts:

I am actually seeking full-time employment and plan to look for a job work in my professional health care field. If I have not found employment by Fall of 1993, I will work if contacted in appropriate substitute teacher position.

Claimant's Rebuttal: With exception of one assignment substitute teacher assignments have been extremely in appropriate.

I have read and hereby affirm under penalties of perjury that the foregoing information is true and correct to the best of my knowledge, information and belief.

Claimant's Signature: Keith South

EMPLOYER'S STATEMENT

Employer called 6/28, 30/93  
Name of employer/company: EST  
Separation notice received: \_\_\_\_\_ 207  Employer Letter  Other   
LDW: 6-11-93 Reason for separation from above: \_\_\_\_\_

Employer contacted by phone? Yes  No  Telephone number: \_\_\_\_\_  
Name of company officer: D. Young Position/title: \_\_\_\_\_  
Claimant present when telephone information was received? Yes  No   
No reasonable assurance last available as of yet. 7/1/93

EMPLOYER'S STATEMENT

ADDITIONAL INFORMATION

7/8/93

BENEFIT DETERMINATION

- Unresolved Issue (H02)
- Create and Resolve Issue (H03)
- Redeter/Corrected Deter (H05)

SSN: 219 58 4423 0  
 Name Check: K B o o

Sequence Number: 10 Issue Code: 22x Program: 00 Java:

Resolution Code: 22 Penalty?: 4 Count?: 4 Time Lapse:

Statement Number: 0222 Text Date: 051393 Examiner I.D.: 01070

Employer Number: 65842610 Non-Charge?:  Non-Charge Start Date:

Start Date: 050993 Disq. Weeks: 99 OP Source:  OP Fault:

SS Pension:  Effective:

Federal Pension:  Effective:  Contributory?:

Other Pension:  Effective:  Contributory?:

LDW:

Bonus/Special Pay:  Profit Sharing Pay:  Contributory?:

Severance Pay:  Lump Sum Pension:  Contributory?:

VH 1:  W/E:  VH 2:  W/E:

VH 3:  W/E:

Redet/Corr. Deter. Reason:

LOWER APPEALS

Date Completed: 6/30/93 Claims Examiner: *[Signature]*

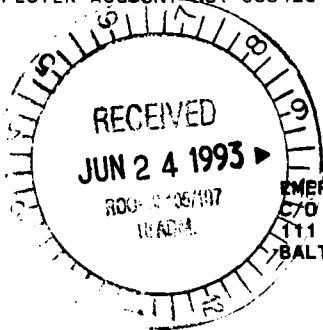
K BOOTH



REQUEST FOR SEPARATION INFORMATION

EMPLOYER ACCOUNT NO. 65842610

RUN DATE: 06/17/93  
DUE DATE: 06/25/93



EMERGENCY SUB TEACHER  
C70 PERSONNEL TECH  
711 N CALVERT ST  
BALTO MD 21202-0000

*Handwritten notes:*  
Jun 21 1993  
APPROVED  
CIVIL SERVICE  
COMMISSION

The claimant whose name is shown below has filed a claim for Unemployment Insurance benefits. Our records indicate that the claimant worked for you. Please answer the questions below, sign and mail this copy of the form in the enclosed envelope by the DUE DATE. **A PENALTY OF \$15 WILL BE ASSESSED IF THIS FORM IS RETURNED LATE OR INCOMPLETE.** NOTE: The law provides penalties for false statements.

SSN: 219-58-4423 Employee's Name: KEITH E BOOTH Other Last Name: Effective Date Of Claim: 07/21/92

REASON FOR SEPARATION

- 1. LAYOFF (10 WEEKS OR LESS) (97) EXPECTED DATE OF RETURN \_\_\_\_\_
- 2. LACK OF WORK / REDUCTION IN FORCE (99)
- 3. QUIT (30)
- 4. DISCHARGED (50): Did the employee follow your instructions and work to the best of his/her ability? YES  NO
- 5. LABOR DISPUTE (29) *by due date, please resubmit.*
- 6. SCHOOL VACATION (22) Does claimant have a written, verbal or implied understanding that he/she will be returning to substantially the same or a better position when school resumes? YES  NO
- 7. STILL EMPLOYED ON A CONTINUOUS PART TIME BA.
- 8. VACATION/HOLIDAY SHUT DOWN START DATE \_\_\_\_\_ END DATE \_\_\_\_\_
- 9. LEAVE OF ABSENCE (88) \_\_\_\_\_

**IF REASON IS 3, 4, 7, 9 PLEASE EXPLAIN IN DETAIL ON THE BACK OF THIS FORM.**

IT MAY RESULT IN RELIEF OF BENEFIT CHARGES, IF ALLOWED BY LAW.

FOR ANY PERIOD SINCE THE LAST DAY WORKED, HAS THE CLAIMANT RECEIVED, OR WILL HE/SHE RECEIVE:

- 1. PENSION OR ANY OTHER RETIREMENT PAYMENT? \_\_\_\_\_  
PER MONTH \$ \_\_\_\_\_ EFFECTIVE DATE \_\_\_\_\_  
LUMP SUM \$ \_\_\_\_\_

*Handwritten:* EST/001

DID CLAIMANT CONTRIBUTE ? YES  NO

Claimant's First Day of Work			Claimant's Last Day of	
MO	DAY	YR	MO	DAY
8	27	92		

- 2. PROFIT SHARING AMT \$ \_\_\_\_\_ DATE PAID \_\_\_\_\_
- 3. BONUS OR SPECIAL PAYMENT \$ \_\_\_\_\_ DATE PAID \_\_\_\_\_
- 4. SEVERANCE PAY \$ \_\_\_\_\_ PAID FOR DATES \_\_\_\_\_
- 5. VACATION PAY \$ \_\_\_\_\_ PAID FOR DATES \_\_\_\_\_
- 6. HOLIDAY PAY \$ \_\_\_\_\_ PAID FOR DATES \_\_\_\_\_

EMPLOYEE WAGES: (GROSS \$)	
HOURLY	\$ 45.00
WEEKLY	\$ 455.00
YEAR TO DATE	\$ 4,455.00

*Handwritten:* last pay date: 6/11/93

\*  **APPLICABLE TO WAGE TRANSFER** YOUR FORMER EMPLOYEE HAS FILED A CLAIM FOR UI BENEFITS IN ANOTHER STATE. AS A RESULT WAGES ARE BEING TRANSFERRED OUT-OF-STATE. MD. HAS NO JURISDICTION OVER THIS CLAIM. YOUR ACCOUNT MAY BE CHARGED FOR BENEFITS PAID.

Note: If the reason for separation given by you on this form is something other than layoff or lack of work, you may be requested to be available by telephone to provide additional information when the claimant's fact finding interview is held. If you recall this individual to work, or if this individual refuses an offer of work, notify the Local Office in writing within 15 days of the job offer.

Trade Name Of Employer: City of Baltimore  
Name (of Official (Please Print)): [Signature]  
Title: Office head Telephone No.: 396-3801 Date: 6/22/93

SEPARATION INFORMATION (information which may affect the claimant's eligibility for benefits)

FAILURE TO COMPLETE AND RETURN THIS FORM ON TIME PROHIBITS THE DEPARTMENT FROM RELIEVING YOUR ACCOUNT OF ANY CHARGES FOR BENEFITS PAID AS A RESULT THEREOF.

RETURN THIS FORM TO THE ADDRESS BELOW IN THE ENVELOPE PROVIDED. FOLD SO THE ADDRESS SHOWS THROUGH THE WINDOW. YOU MAY ATTACH SUPPORTING DOCUMENTATION. PLEASE MAKE A COPY OF THIS FORM FOR YOUR RECORDS.

01  
DEED/OFFICE OF UNEMPLOYMENT INS.  
BALTIMORE LOCAL OFFICE  
P. O. BOX 552  
BALTIMORE, MD 21203

**RECALL** - IF THE CLAIMANT REFUSES AN OFFER OF EMPLOYMENT WHILE RECEIVING BENEFITS, NOTIFY THE LOCAL OFFICE ABOVE IMMEDIATELY IN WRITING.

**LOCAL OFFICE INFORMATION** - Should you have any questions, please contact the Local Office shown above. Routine faxing of separation information is not permitted. Please only fax unemployment insurance forms if they have not been mailed by the due date printed on the form or if requested to do so. Both sides of this form must be returned.

LOCAL OFFICE NO.	TELEPHONE	FAX NO.
08	Annapolis (410) 974-7942	(410) 974-7595
01	Baltimore (410) 333-5311	(410) 333-5739
45	Baltimore-Northwest (410) 358-6666	(410) 358-6685
22	BelAir (410) 836-4611	(410) 836-4640
10	Cambridge (410) 228-0700	(410) 221-1817
11	Chestertown (410) 778-3525	(410) 778-3527
07	College Park (301) 441-2175	(301) 441-2166
23	Columbia (410) 312-5777	(410) 312-5761
56	Combined Wage Claim Section (410) 333-7199	(410) 333-7198
26	Crisfield (410) 968-0440	(410) 968-2149
03	Cumberland (301) 777-2124	(301) 777-5978
24	Denton (410) 822-3030	
25	Easton (410) 822-3030	(410) 820-9966
40	Eastpoint (410) 288-9244	(410) 288-9260
13	Elkton (410) 996-0576	(410) 996-0555
05	Frederick (301) 694-2180	(301) 694-1916
02	Glen Burnie (410) 508-2350	(410) 508-2348
34	Grasonville (410) 778-3525	(410) 778-3527
04	Hagerstown (301) 791-4711	(301) 791-4673
93	Landover (301) 386-0701	(301) 386-0709
21	Leopardsville (301) 475-5595	(301) 475-4036
50	Liability Unit (410) 333-7230	(410) 333-7539
14	Oakland (301) 334-3972	(301) 334-2106
42	Ocean City (410) 632-1886	(410) 289-6619
33	Prince Frederick (410) 535-8817	(301) 855-1961
36	Princess Anne (410) 651-0801	(410) 651-3908
12	Salisbury (410) 543-6647	(410) 543-6646
27	Snow Hill (410) 632-1886	(410) 632-2905
09	Towson (410) 321-3931	(410) 321-2201
20	Waldorf (301) 645-8711	(301) 645-8713
15	Westminster (410) 876-2240	(410) 848-9699
43	Wheaton (301) 929-4355	(301) 933-0749
	Inquiry & Correspondence Unit (410) 333-7980	

LOWER APPEALS  
 JUL 7 0 1993







NOTICE TO APPEALS DIVISION OF LOWER APPEAL

SSN: 219 58 4423 0 DATE RECEIVED/TAKEN BY LO: 07/16/93 ENTRY DATE: 07/16/93

LO: 01 PROGRAM TYPE: 00 BYB: 07/21/92 SPECIALIST ID: 01070

DATE OF APPEAL: 07/13/93 APPEAL DEADLINE: 07/23/93

APPELLANT: CLAIMANT

ISSUE: SCHOOL EMPLOYMENT SEQ. NO.: 10 WBA: \$223.00

COMMENTS:

CLAIMANT: KEITH E BOOTH TELEPHONE: 410 237 0095

ADDRESS: 932 N. COLLINGTON AVE  
BALTIMORE MD 21205

EMPLOYER: EMERGENCY SUB TEACHER TELEPHONE:  
ADDRESS: C/O PERSONNEL TECH  
111 N CALVERT ST  
BALTO MD 21202-0000 EMPLOYER #: 0065842610

EMPL REP: TELEPHONE:  
ADDRESS:

INTERPRETER: N LANGUAGE:

BENEFIT DETERMINATION

THE CLAIMANT WAS EMPLOYED IN A CAPACITY OTHER THAN INSTRUCTIONAL, RESEARCH, OR PRINCIPAL ADMINISTRATIVE IN AN EDUCATIONAL INSTITUTION. THE UNEMPLOYMENT COMMENCED BETWEEN TWO SUCCESSIVE ACADEMIC YEARS OR TERMS AND THERE IS REASONABLE ASSURANCE THAT HE/SHE WILL RETURN TO HIS/HER EMPLOYMENT IN THE SECOND YEAR OR TERM. THEREFORE, BENEFITS BASED ON THESE EARNINGS ARE DENIED UNDER SECTION 8-909 OF THE MARYLAND UNEMPLOYMENT INSURANCE LAW WITH THE WEEK BEGINNING 05/13/93 AND UNTIL THE CLAIMANT NO LONGER HAS REASONABLE ASSURANCE.

- BENEFITS ARE ALLOWED.
- BENEFITS ARE DENIED WEEK BEGINNING AND FOR THE WEEKS ENDING
- BENEFITS ARE DENIED WEEK BEGINNING AND UNTIL THE CLAIMANT BECOMES REEMPLOYED AND EARNS AT LEAST TIMES HIS/HER WBA
- BENEFITS ARE DENIED WEEK FROM TO
- BENEFITS ARE DENIED WEEK BEGINNING 05/09/93 UNTIL MEETING REQUIREMENTS OF THE LAW.
- AS A RESULT OF THIS DETERMINATION, THE CLAIMANT IS FOUND TO HAVE RECEIVED BENEFITS FOR WHICH HE/SHE WAS INELIGIBLE. THIS CREATES AN OVERPAYMENT TOTALLING WHICH MUST BE REPAID.
- BENEFITS ARE DENIED WEEK BEGINNING AND UNTIL THE CLAIMANT BECOMES REEMPLOYED AT LEAST 4 WEEKS AND EARNS FOUR (4) TIMES HIS/HER WBA.

DET/UIA 941 (ISSUED 1/86) MABS

7

EXPLANATION FOR THE RECORD

Deed does not retain a copy of the "NOTICE OF BENEFIT DETERMINATION" sent to claimant's and affected employers because these notices are computer generated data-mailers.

The following page is a photocopy of a blank data-mailer. The information on the previous page was printed on such a form and mailed to the claimant and affected employer.

DEED retains the information printed on the data-mailer form (DEED OUI 222) in each claimant's computer file on screen 941 of the Maryland Automated Benefits System (MABS).

STATE OF MARYLAND  
DEPARTMENT OF ECONOMIC DEVELOPMENT  
OFFICE OF UNEMPLOYMENT INSURANCE  
NOTICE OF BENEFIT DETERMINATION

PREDETERMINATION HEARING  
 PRETERMINATION HEARING  
 REDETERMINATION  
LOCAL OFFICE ADDRESS

SSN:  
DATE MAILED:  
BENEFIT YEAR BEGINS:

ISSUE  
SECTION OF LAW  
DATE OF DETERMINATION  
SPECIALIST ID

THE LAST DAY TO FILE AN APPEAL IS:

(IF THIS DECISION IS CHANGED ON APPEAL, THE CLAIMANT  
WILL BE REQUIRED TO REPAY ANY RESULTING OVERPAYMENT.)

MAIL REQUEST FOR APPEAL TO  
LOCAL OFFICE ADDRESS ABOVE

DETERMINATION:

- BENEFITS ARE ALLOWED, IF OTHERWISE ELIGIBLE.
- BENEFITS ARE DENIED WEEK BEGINNING \_\_\_\_\_ AND FOR THE \_\_\_\_\_ WEEKS ENDING \_\_\_\_\_
- BENEFITS ARE DENIED WEEK BEGINNING \_\_\_\_\_ AND UNTIL THE CLAIMANT BECOMES REEMPLOYED AND EARNS  
AT LEAST TEN (10) TIMES HIS/HER WEEKLY BENEFIT AMOUNT \$ \_\_\_\_\_
- BENEFITS ARE DENIED FROM \_\_\_\_\_ TO \_\_\_\_\_ AND SEE BELOW \*
- BENEFITS ARE DENIED WEEK BEGINNING \_\_\_\_\_ UNTIL MEETING REQUIREMENT OF THE LAW.
- AS A RESULT OF THIS DETERMINATION, THE CLAIMANT IS FOUND TO HAVE RECEIVED BENEFITS FOR WHICH HE/S  
WAS INELIGIBLE. THIS CREATES AN OVERPAYMENT TOTALING \$ \_\_\_\_\_ WHICH MUST BE REPAID. YOU MUST  
REPAY THIS DEBT PROMPTLY TO AVOID LEGAL ACTION. IN ADDITION NO FURTHER BENEFITS WILL BE PAID TO  
UNTIL THIS DEBT IS REPAID. MAKE YOUR CHECK PAYABLE TO: DEPARTMENT OF ECONOMIC & EMPLOYMENT DEVE  
MENT AND MAIL IT TO THE OFFICE OF UNEMPLOYMENT INSURANCE, 1100 NORTH EUTAW STREET, CASHIER'S UNIT  
ROOM 412, BALTIMORE, MARYLAND 21201. PUT YOUR SOCIAL SECURITY NUMBER ON THE CHECK.
- BENEFITS ARE DENIED WEEK BEGINNING \_\_\_\_\_ AND UNTIL THE CLAIMANT BECOMES REEMPLOYED AT LEAST  
4 WEEKS AND EARNS FOUR (4) TIMES HIS/HER WEEKLY BENEFIT AMOUNT \$ \_\_\_\_\_

\* A DENIAL OF BENEFITS FOR A LIMITED NUMBER OF WEEKS UNDER SECTIONS 8-1001, 8-1003 OR 8-1005  
WILL RESULT IN DENIAL OF FEDERAL EMERGENCY UNEMPLOYMENT COMPENSATION (EUC) BENEFITS UNTIL  
THE INDIVIDUAL HAS BECOME REEMPLOYED.

SEE BACK OF FORM FOR APPEAL RIGHTS.

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## APPEAL RIGHTS:

**CLAIMANT AND EMPLOYER:** Section 8-509 of the Maryland Unemployment Insurance Law provides the right to appeal this determination. The appeal must be in writing and may be submitted in person or mailed to the Local Office within (15) days of the determination. If mailed, the appeal must be postmarked within (15) days of the date of this determination. A claimant who appeals a determination and remains unemployed must continue to file timely claims for each week. **NO LATE CLAIMS WILL BE ACCEPTED.**

### SECTION OF LAW

### PROVISIONS OF THE LAW REGARDING BENEFITS

- 8-801 The claimant must be totally or partially unemployed through no fault of his own.
- 8-803 A claimant must report all earnings for each week he files claims for unemployment benefits.
- 8-804 The dependents allowance is payable only if the claimant provides support for the dependent child under 16 years of age at the beginning of his benefit year.
- 8-809 If the claimant has received benefits for which he is found to have been ineligible, the claimant must repay those benefits. In addition, the amount may be recovered from benefits payable to the claimant in the future.
- 8-809 If the claimant knowingly made a false statement or failed to disclose material facts in order to obtain benefits, he will be disqualified for one year, must repay all benefits received, and may be prosecuted.
- 8-901 The claimant must file a claim for each week of unemployment in accordance with regulations.
- 8-902 The claimant must register for work and continue to report and keep his registration active.
- 8-903 The claimant must be able and available for work and make a reasonable effort to find work.
- 8-910 The claimant who received benefits in a previous benefit year shall not be eligible for future benefits unless he has worked for an employer and earned wages equal to ten times his new weekly benefit amount after the beginning of the first of such benefit years.
- 8-1001 If the claimant voluntarily left work without good cause, he may be disqualified from five to ten weeks or until he has become reemployed and earned ten times his weekly benefit amount. If a claimant voluntarily leaves his work to become self-employed, to accompany or join his spouse in a new locality or to attend an educational institution he will be disqualified until he has become reemployed and earned ten times his weekly benefit amount.
- 8-1002 If the claimant was discharged or suspended for gross misconduct connected with his work, he will be disqualified until he has earned ten times his weekly benefit amount.
- 8-1003 If the claimant was suspended or discharged for misconduct (not gross) connected with his work, he may be disqualified from five to ten weeks.
- 8-1004 If the claimant's unemployment is due to a stoppage of work because of a labor dispute (other than a lockout) he will be disqualified for the duration of the stoppage of work.
- 8-1005 If the claimant failed, without good cause, to apply for available, suitable work, or to accept such work when offered to him, he may be disqualified from five to ten weeks or until he becomes reemployed and has earned ten times his weekly benefit amount.
- 8-1006 If the claimant has applied for or is receiving unemployment benefits under the laws of another State or of the United States, he is not eligible for benefits in Maryland.
- 8-1007 If the claimant is receiving vacation or holiday pay and has a definite return to work date at the time of separation, benefits will be denied or reduced for the week(s) to which the pay applies.
- 8-1008 If the claimant is receiving a pension, annuity, profit sharing, or retirement pay other than Social Security, or any other similar periodic payment based on his previous work for a base period employer, benefits will be denied or reduced.
- 8-1009 If the claimant receives dismissal pay, benefits will be denied or reduced for the week(s) to which the pay applies.
- Note: No disqualification shall be applied under this Section if the claimant's unemployment is due

Id!  
7-16-93  
(52)

STATE OF MARYLAND  
DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT  
OFFICE OF UNEMPLOYMENT INSURANCE

**REQUEST FOR APPEAL HEARING**

I wish to appeal the determination dated 7-8-93 written under section 8-909 of the

law because I am not a salaried employee. I am not a contract employee nor do I have reasonable assurance of return to work. I have been sporadically called for temporary assignments. I am seeking full-time employment. I have not been called for appropriate work assignments.

Reason, if late appeal:

I understand that I must continue to file claims for each week that I am unemployed pending the outcome of my appeal.

Paul E. Bood  
(Claimant's Signature)

219-58-4423  
(Social Security Number)

H. Lerner  
(Witness)

7-13-93  
(Date)

**REQUEST FOR LOWER APPEAL (I01)**

SSN 219 58 4423 0 Name Check K B O O

New Address \_\_\_\_\_  
\_\_\_\_\_  
(City) (State) (Zip Code)

Date of Appeal 071393  
Type of Appeal 1 Interpreter? N Language \_\_\_\_\_  
Appellant Code 1  
Resolution Code 22 Sequence Number 10

Comments \_\_\_\_\_  
Date Appeal Received By Local Office 071693

**TYPE OF APPEAL CODES**  
1 Intrastate  
2 Liable State  
3 Agent State

**Date of Appeal** - On an appeal filed by mail, the postmark date. On an appeal filed in person, the date the appeal was actually filed.  
**Date Appeal Received/Taken By Local Office** - On an appeal filed by mail, the first working day that the appeal was actually received in the Local Office. On an appeal filed in person, the date the appeal was actually filed.

SSN: 219-58-4423 0

APPELLANT CODE: 01 CLAIMANT

APPEAL NUMBER: 9314425 SEQ: 010

LOCAL OFFICE: 01 BALTIMORE

CLAIMANT:  
KEITH E BOOTH  
932 N. COLLINGTON AVE

SPECIALIST ID: 01070

PROGRAM TYPE: 00 ui

BALTIMORE , MD 21205-  
(410) 237-0095 x

MULTIPLE APPEAL: No

\*TYPE OF APPEAL:

EMPLOYER ACCOUNT NUMBER: 0065842610

\*BYB: 07/21/1992

EMPLOYER NAME:

\*WBA: 223.00

EMERGENCY SUB TEACHER

C/O PERSONNEL TECH

111 N CALVERT ST

DATE ENTERED: 07/16/1993

BALTO , MD 21202-

(000) 000-0000 x

DATE REC'D L.O.: 07/16/1993

EMPLOYER REP NAME:

DATE OF APPEAL: 07/13/1993

\*DEADLINE DATE: 07/23/1993

x

TIMELY: Yes

\*INTERPRETER: No

LANGUAGE: No Interpreter

OVERPAYMENT: No

COMMENTS

DATE OF BENEFIT DETERMINATION: 07/08/1993

LO Issue: 22 SCHOOL EMPLOYMENT

LA Issue: 22/909 School Employment

BENEFIT DETERMINATION

THE CLAIMANT WAS EMPLOYED IN A CAPACITY OTHER THAN INSTRUCTIONAL, RESEARCH, OR PRINCIPAL ADMINISTRATIVE IN AN EDUCATIONAL INSTITUTION. THE UNEMPLOYMENT COMMENCED BETWEEN TWO SUCCESSIVE ACADEMIC YEARS OR TERMS AND THERE IS REASONABLE ASSURANCE THAT HE/SHE WILL RETURN TO HIS/HER EMPLOYMENT IN THE SECOND YEAR OR TERM. THEREFORE, BENEFITS BASED ON THESE EARNINGS ARE DENIED UNDER SECTION 8-909 OF THE MARYLAND UNEMPLOYMENT INSURANCE LAW WITH THE WEEK BEGINNING 05/13/93 AND UNTIL THE CLAIMANT NO LONGER HAS REASONABLE ASSURANCE.

PENALTY

BENEFITS ARE DENIED WEEK BEGINNING 05/09/93 UNTIL MEETING REQUIREMENTS OF THE LAW.

PENALTY: Yes



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Page: 2  
Appeal No: 9314425

NOTICE TO APPEALS DIVISION OF LOWER APPEAL

Time: 06:51 am  
Date: Jul 17, 93

START DATE: 05/09/1993  
DISQUALIFICATION WEEKS: 0

110-25-221  
NUMBER  
E LIND  
WASHINGTON WA  
LINDORF  
197-0021  
THE ACCOUNT HAD  
TEACHER  
NORMAL TECH  
11-0000  
THE MEMBER

YES  
TIMELY  
NO  
\*INTERESTER:  
LINDORF

x

BENEFIT DEBIT  
22/99  
SCHOOL  
22/99

CLAIMANT WAS EMPLOYED BY THE UNIVERSITY OF WASHINGTON IN THE POSITION OF RESEARCH ASSISTANT IN THE DEPARTMENT OF EDUCATIONAL PSYCHOLOGY. THE EMPLOYMENT BEGAN IN 1988 AND ENDED IN 1992. THE EMPLOYMENT WAS FULL-TIME AND THE EMPLOYER WAS THE UNIVERSITY OF WASHINGTON. THE EMPLOYER HAS NOTIFIED THE CLAIMANT THAT HE WILL RETURN TO HIS EMPLOYMENT IN THE POSITION OF RESEARCH ASSISTANT IN THE DEPARTMENT OF EDUCATIONAL PSYCHOLOGY IN 1993. THE EMPLOYER HAS OFFERED THE CLAIMANT A POSITION OF RESEARCH ASSISTANT IN THE DEPARTMENT OF EDUCATIONAL PSYCHOLOGY IN 1993. THE EMPLOYER HAS OFFERED THE CLAIMANT A POSITION OF RESEARCH ASSISTANT IN THE DEPARTMENT OF EDUCATIONAL PSYCHOLOGY IN 1993. THE EMPLOYER HAS OFFERED THE CLAIMANT A POSITION OF RESEARCH ASSISTANT IN THE DEPARTMENT OF EDUCATIONAL PSYCHOLOGY IN 1993.

REQUIREMENTS ARE DENIED BY THE BOARD OF APPEALS. THE BOARD OF APPEALS HAS DETERMINED THAT THE CLAIMANT DOES NOT MEET THE REQUIREMENTS FOR REEMPLOYMENT.

Yes

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

STATE OF MARYLAND  
APPEALS DIVISION - ROOM 511  
1100 NORTH EUTAW STREET  
BALTIMORE, MARYLAND 21201  
(410) 333-5040  
OUTSIDE OF BALTIMORE: 1-800-492-2137

APPEAL HEARING NOTICE

Claimant's Name	Employer's Name	Date Mailed	Appeal No.	SS No.
KEITH E. BOOTH	EMERGENCY SUB TEACHER	Jul 20, 93	9314425	219-58-4428

Appellant: Claimant

Local Office No. 01

A hearing on this appeal will be held before the Hearing Examiner on AUGUST 3, 1993  
AUGUST (THIRD), 1993 at 09:00 a . M. EDT (PLEASE BE ON TIME)  
Plan to arrive 15 minutes early.

HEARING LOCATION

Baltimore U.I. Office  
Appeals Division - Room 511  
1100 North Eutaw Street  
Baltimore, MD 21201

Hearing Examiner: M. M. Thompson

Mail To: KEITH E. BOOTH  
932 N. COLLINGTON AVE  
BALTIMORE, MD 21205-

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WHETHER THE CLAIMANT IS ABLE, AVAILABLE AND ACTIVELY SEEKING WORK WITHIN THE MEANING OF SECTION 903 OF THE LAW IS ALWAYS AN ISSUE THAT MAY BE RULED ON BY THE HEARING EXAMINER.

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SEE THE OTHER SIDE OF THIS NOTICE FOR IMPORTANT INFORMATION.

PLEASE BRING THIS NOTICE WITH YOU.

Whether the claimant is unemployed between academic years or terms, or during a customary vacation period, from an educational institution and has reasonable assurance of returning to work within the meaning of MD Annotated Code, Labor and Employment Article, Title 8, Section 903.



DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

STATE OF MARYLAND  
APPEALS DIVISION - ROOM 511  
1100 NORTH EUTAW STREET  
BALTIMORE, MARYLAND 21201  
(410) 333-5040  
OUTSIDE OF BALTIMORE: 1-800-492-2137

APPEAL HEARING NOTICE

Claimant's Name	Employer's Name	Date Mailed	Appeal No.	SS No.
KEITH E. BOOTH	EMERGENCY SUB TEACHER	JUL 30, 1993	9314425	219-50-4423

Appellant: Claimant

Local Office No. 01

A hearing on this appeal will be held before the Hearing Examiner on AUGUST 3, 1993  
AUGUST (THIRD), 1993 at 09:00 a . M. EDT (PLEASE BE ON TIME)  
Plan to arrive 15 minutes early.

Hearing Examiner: M. M. Thompson

**HEARING LOCATION**  
Baltimore U.I. Office  
Appeals Division - Room 511  
1100 North Eutaw Street  
Baltimore, MD 21201

Mail To: [ EMERGENCY SUB TEACHER  
C/O PERSONNEL TECH  
111 N CALVERT ST  
BALTO, MD 21202- ]

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Issue: Whether the claimant is unemployed between academic years or terms, or during a customary vacation period, from an educational institution and has reasonable assurance of returning to work within the meaning of MD Annotated Code, Labor and Employment Article, Title 8, Section 909.

**INFORMATION FOR PARTIES TO THE APPEAL HEARING**

**WITHDRAWAL OF APPEAL**

The party who filed the appeal may withdraw it at any time before the hearing if the Administrative Officer approves. If you do not wish to proceed with your appeal, you may request withdraws by letter, or on Form DEED/OUVAD 379, which is available from the Claims Specialist in the Local Office, or from the Appeals Division in Room 511, 1100 North Eutaw Street, Baltimore, Maryland 21201.

**HEARINGS, ISSUES, AGENTS AND ATTORNEYS**

The Hearing Examiner will try to develop all of the facts of this case in order to give a fair hearing to all parties, but the Hearing Examiner will not conduct an investigation, contact witnesses not brought to the hearing or obtain documents which are not brought into the hearing by the parties. The only exception is for Department of Economic and Employment Development records, which you will have the right to see.

The Hearing Examiner will consider the issues in the Claims Examiner's determination which have been appealed. Also, the Hearing Examiner will rule on any issue which may develop in the course of the hearing concerning the Claimant's eligibility for benefits, if it is fair to both parties to do so in the circumstances of each case.

You may be represented by an attorney, or other authorized agent. You must pay your attorney his legal fee, but attorneys representing a claimant may not charge more than the fee approved by the Board of Appeals.

**WITNESSES AND SUBPOENAS**

Each party should arrange for all necessary witnesses to attend the hearing, and for all necessary documents to be presented at the hearing. When witnesses will not come voluntarily, or documents will not be produced voluntarily, you may request a subpoena from the Administrative Officer. This request must be in writing and must be received by the Administrative Officer at least five working days before the date of the hearing. The request must also give the name of the person to be subpoenaed, the address to which you want the subpoena delivered, and the name of the Maryland county where the person to be subpoenaed resides or is employed. Regarding records being subpoenaed, the request must include a description of the documents to be subpoenaed as well as the name of the custodian of the records, the address to which you want the subpoena delivered, and the name of the Maryland county where the custodian of the records is located. The Administrative Officer has the power to allow or to deny a request, or to allow part of a request.

**NOTE:** Hearing Examiner cannot make copies of documents. You must bring copies to the hearing of all documents you want submitted as evidence.

**TABLE OF PENALTIES UNDER CODE OF MARYLAND, Labor and Employment Article Title 8**

SECTION OF LAW	QUESTION	IF THE ANSWER IS YES, THE POSSIBLE PENALTY IS:
1001	Did the Claimant voluntarily quit his employment, without good cause?	From a 5 week disqualification up to a total disqualification*
1002	Was the Claimant suspended or discharged for gross misconduct?	Total disqualification*
1002.1	Was the claimant suspended or discharged for intentional aggressive misconduct?	Total disqualification* and loss of wage credits
1003	Was the Claimant suspended or discharged for misconduct?	From a 5 week disqualification up to a 10 week disqualification
1005	Did the Claimant refuse available, suitable work or fail to apply for it, without good cause?	From a 5 week disqualification up to a total disqualification*

\*A total disqualification lasts until the Claimant is employed again, meets an earning requirement, and then becomes unemployed again through no fault of his/her own.

All penalties under Sections 1001, 1002, 1002.1, 1003 or 1005 will result in ineligibility for Extended Benefits, or any Federal Unemployment Compensation Extension, unless the Claimant is reemployed after the date of the disqualification.

**POSTPONEMENT OF HEARING**

If you need a postponement of the hearing, you must request it in writing from the Administrative Officer at least five working days before the date of the hearing. The Administrative Officer will grant a postponement only if the Administrative Officer agrees that you have good cause for postponement. If you are not sure whether or not your case has been postponed, you may find out by contacting the Administrative Officer.

**DISMISSAL**

This appeal will be dismissed if the appealing party does not appear on time for the hearing.

**INQUIRIES (OR YOU NEED AN INTERPRETER)**

For further information, you may contact the Administrative Officer at (410) 333-5040, or write to Appeals, Room 511, 1100 N. Eutaw St., Baltimore, Maryland 21201.

**HEARING RULES**

The hearing rules are found in Section 806, CODE OF MARYLAND, Labor and Employment Article, Title 8 and Section 24.02.06 of the Code of Maryland Agency Regulations. *(This page is a copy of the reverse side of the Appeal Hearing Kit)*

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DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

STATE OF MARYLAND  
 APPEALS DIVISION - ROOM 511  
 1100 NORTH EUTAW STREET  
 BALTIMORE, MARYLAND 21201  
 (410) 333-5040  
 OUTSIDE OF BALTIMORE: 1-800-492-2137

APPEAL HEARING NOTICE

Claimant's Name	Employer's Name	Date Mailed	Appeal No.	SS No.
KEITH E. BOOTH	REIMBURSEMENT BANK	08/10/93	001100	0000000000

Appellant: Claimant

Local Office No. 01

A hearing on this appeal will be held before the Hearing Examiner on

August 11, 1993  
 AUGUST (THURSDAY), 1993

at 09:00 A.M.

(PLEASE BE ON TIME)

Plan to arrive 15 minutes early.

HEARING LOCATION Office  
 Appeals Division - Room 511  
 1100 North Eutaw Street  
 Baltimore, MD 21201

Hearing Examiner: M. T. Thompson

Mail To: KEITH E. BOOTH  
 932 N. COLLINGTON AVE  
 BALTIMORE, MD 21205-

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 OUTSIDE OF BALTIMORE: 1-800-492-2137

APPEAL HEARING NOTICE

Claimant's Name	Employer's Name	Date Mailed	Appeal No.	SS No.
KRITHI E. BOOTH	EMERGENCY SUB TEACHER	JUL 23, 1993	9014405	010-58-4400

Appellant: Claimant

Local Office No. 01

A hearing on this appeal will be held before the Hearing Examiner on AUGUST 3, 1993  
AUGUST (THIRD), 1993 at 09:00 a .M. EST (PLEASE BE ON TIME)

Plan to arrive 15 minutes early.

**HEARING LOCATION** Office  
 Appeals Division - Room 511  
 1100 North Eutaw Street  
 Baltimore, MD 21201

Hearing Examiner: M. M. Thompson

Mail To: **EMERGENCY SUB TEACHER**  
 C/O PERSONNEL TECH  
 111 N CALVERT ST  
 BALTO, MD 21202-

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# Maryland

Department of Economic &  
Employment Development

William Donald Schaefer  
Governor  
Mark L. Wasserman  
Secretary  
1100 North Eutaw Street  
Baltimore, Maryland 21201

## BASIC INFORMATION FOR UNEMPLOYMENT INSURANCE APPEALS HEARINGS

There are two essential requirements for Appeals Hearings:

- RECORD MADE AT HEARING** It is required that a *record* be established of the hearing and this is accomplished by making a tape recording. (Parties prohibited from making unofficial recordings).
- TESTIMONY UNDER OATH** All testimony given at appeals hearings must be given under *oath* or *affirmation*. Legal Counsel and other representatives not testifying need not be sworn.
- WHO PROCEEDS FIRST** In cases involving a *termination* from employment, the employer testifies first. In cases involving a *resignation* from employment, the claimant testifies first.
- CROSS EXAMINATION** After the testimony of each witness has been completed, the opposing party or his/her legal counsel or representative will be offered the right of cross examination. This procedure will be followed until all witnesses for either party (claimant or employer) have testified and then the other side will begin its case following the same format.
- DO NOT INTERRUPT** Even if you strongly disagree with what a witness says, *please do not interrupt or argue with the witness*. You will have the opportunity to ask questions of that witness *and* to present your own side of the story. An orderly and systematic hearing is to the advantage of *all* parties.
- DOCUMENTARY EVIDENCE** In some cases the parties may wish to present documentary evidence (such as personnel records, pay check stubs, medical certificates, etc.). These papers will be accepted as long as they are *relevant to the case*. Parties should prepare their own copies of any papers they plan to submit as evidence.
- WRITTEN DECISION AND FURTHER APPEALS** Decisions in appeal cases are written. They are issued after the Hearing Examiner has reviewed all the evidence, made findings of fact and applied the Unemployment Insurance Law to those facts. The full written decision is mailed to all interested parties as soon as possible. There is a *right of further appeal* which is fully explained on the first page of the decision.
- EUC - NOTICE** In appeals involving Emergency Unemployment Insurance Compensation (EUC, or "extended benefits") the parties are hereby placed on notice that in an adverse decision an overpayment may be created and if so the claimant shall be responsible to repay the overpayment.
- FURTHER QUESTIONS** If you have any further questions about the procedure for appeals hearings, please ask the Hearing Examiner prior to the start of the hearing.



## P R O C E E D I N G S

Hearing Examiner: Mr. Booth, what I passed to you is a copy of the information provided to the Agency -- which is considered the fact finding statement. Also, we see the employer's response on the next page. If you could look over that and pass that to Mr. Gentry, we will -- and I will go forward with the hearing. Appeal number 9314425. The claimant, Keith Booth, is present. This is the claimant's appeal against the employer, Emergency Substitute Teacher. We are located at the Baltimore office. The employer is represented by?

Mr. Gentry: George Gentry.

Hearing Examiner: And your position, sir?

Mr. Gentry: Personnel technician supervisor, Civil Service Commission.

Hearing Examiner: The cassette number in this case 14425. The claimant's social security number, 219-58-4423. I would like to swear all testifying parties. Would you please raise your right hand?

(Witnesses sworn.)

Hearing Examiner: I need to inform you all that this hearing is being tape recorded, and that

is a requirement of Maryland law to do so. In this matter, the employer will present his case first, give its reasons, in order to establish whether or not there is a reasonable assurance for a return to work. At the conclusion of the employer's case, the claimant may ask cross-examination questions, then the claimant will present his case and the employer may ask cross-examination questions of the claimant. Any records, letters, documents and business statement may be accepted as evidence if it is relevant to this case. Do either of you have any questions?

Mr. Booth:

Yes, I do. I wanted to know -- the question I wanted to ask is whether or not I will be able to add additional information in terms of some of the things that I was doing when I was called for assignments?

Hearing Examiner:

Okay. Well, our hearing here is to determine whether or not you have a reasonable assurance to return to work in the fall, and whether or not you have successive employment prior



to that separation, summer break. If the information that you are referring to is relevant to information -- to testimony given, then yes. But if it is not relevant, then we will weight it at that point.

Mr. Booth: I think that to some extent it is relevant.

Hearing Examiner: Okay. I haven't heard it, so I can't determine.

Mr. Booth: Okay.

Hearing Examiner: What I am basically saying is, I will make a determination --

Mr. Booth: Okay.

Hearing Examiner: -- once we get to the point. Any other questions? Yes, you do have a right to submit evidence if it is relevant.

Mr. Booth: All right.

Hearing Examiner: All right, then. Any other questions from either of you?

Mr. Gentry: No.

Hearing Examiner: When did you begin working as a substitute teacher?

Mr. Booth: I started on day back in latter October.

Hearing Examiner: Of 1992 or 93?

Mr. Booth: '82.

Hearing Examiner: '82?  
Mr. Booth: I mean '92.  
Hearing Examiner: And when did you last work?  
Mr. Booth: Well, I was called and I didn't have anything for a long time, and then I was called in. So it was like off and on, but school closed around June the 7th, the week of June the 16th.  
Hearing Examiner: Of '93?  
Mr. Booth: Yes.  
Hearing Examiner: To your knowledge, were you still eligible for work at that point?  
Mr. Booth: No.  
Hearing Examiner: Not after June 13th, but prior to June 13th? If the school would have needed you and called you, could you have worked? Were you still on the list for being a substitute?  
Mr. Booth: That's one of the questions I want to raise.  
Hearing Examiner: Okay.  
Mr. Booth: There is no list.  
Hearing Examiner: All right then. What was your position?  
Mr. Booth: Substitute teacher.  
Hearing Examiner: And your salary at the point of --  
Mr. Booth: \$45.  
Hearing Examiner: Per hour?

Mr. Booth: No, per day.

Hearing Examiner: Mr. Gentry, can you present the employer's case in this matter? Was the claimant discharged?

Mr. Gentry: No.

Hearing Examiner: Is he still eligible for employment as a substitute teacher?

Mr. Gentry: Yes.

Hearing Examiner: Was the claimant placed on a list of -- an eligibility list for substituting?

Mr. Gentry: Yes.

Hearing Examiner: And when -- does that list expire at any point?

Mr. Gentry: That list has not expired, and it was generated July 16th, '93, a copy of which was sent to DEED.

Hearing Examiner: I don't have a copy of that document.

Mr. Gentry: I'll be happy to submit it as exhibit.

Hearing Examiner: All right. We will pass this to Mr. Booth. Mr. Booth, have you seen that document?

Mr. Booth: I've never seen this document before.

Hearing Examiner: Do you see your name on there?

Mr. Booth: It also has the date on it, July 17th.

Hearing Examiner: Is your name on there?

Mr. Booth: Yes, my name is on there, but I've never seen anything like this.

Hearing Examiner: Any objections?

Mr. Booth: Yes, ma'am.

Hearing Examiner: What is your objection?

Mr. Booth: That there was no list that I was ever called from in terms of -- to be a substitute, because I was never called from that list.

Hearing Examiner: What I am going to do is, I am going to accept this as an exhibit and allow you to ask Mr. Gentry questions about the document. Marked as Employer's Exhibit number 1 is a Baltimore City list, eligibility list dated July 16th, 1993. Okay. Mr. Gentry, this list, does it establish whether or not the claimant has a reasonable assurance for a return to work as of the school year beginning September?

Mr. Gentry: Yes, that is the purpose of generating that list.

Hearing Examiner: Okay. Anything further you would like to state regarding this matter?

Mr. Gentry: No, with respect to -- well, yes, with respect to reasonable assurance. Mr. Booth has that, and as an additional thought, it is his responsibility, and he is given that direction at the very

beginning, to contact the office, the Department of Education, for assignment to various schools. That is incumbent upon all emergency substitute teachers to do that.

Hearing Examiner: Okay. To your knowledge, how was the claimant informed of this requirement? How would he have been informed? Would that have been given to him in writing?

Mr. Gentry: Yes, it's a document --

Hearing Examiner: Is there an orientation?

Mr. Gentry: -- on policies and procedures regarding how one is assigned to the various schools. It is up to the substitute teacher to contact the office.

Hearing Examiner: Okay, and was the claimant restricted to a particular school or could he have -- does this list indicate that the claimant is only assigned to one individual school, or that he could receive employment from any school in the Baltimore City area?

Mr. Gentry: Well, this listing just simply affirms that the claimant has a reasonable assurance to be hired. If the claimant is agreeable to being assigned to any school, then he can be. If he wants

to limit it to certain schools, then he has to indicate that to the office, and that is respected and honored.

Hearing Examiner: Was an orientation given or is an orientation provided to people who are signed up for substitute teachers?

Mr. Gentry: Yes, and in addition to that, they are given a set of the policies and procedures so that they can adhere to them.

Hearing Examiner: Anything else, sir?

Mr. Gentry: That's all I have.

Hearing Examiner: I'm going to allow Mr. Booth to ask cross-examination questions.

Mr. Booth: Yes. When did the last day of school end?

Mr. Gentry: I'm not sure of that day. About mid-June.

Mr. Booth: I think that's important. Mid-June. What date was the last day of school? I think that's important to know.

Hearing Examiner: Okay. Just question on it, sir.

Mr. Booth: What day was the last day of school?

Mr. Gentry: I don't know.

Mr. Booth: You mentioned -- is there anything in writing, like a contract or severe that you have for substitute teachers?

Mr. Gentry: Contract, no.

Mr. Booth: Is there any kind of job description that you have for substitute teachers?

Mr. Gentry: There's no job description.

Mr. Booth: What is the job description of a substitute teacher?

Mr. Gentry: Well, that would vary --

Mr. Booth: What are some of the responsibilities?

Mr. Gentry: That would vary in accord with the assignment that is given, and at that time they are told what they are.

Mr. Booth: I'm not clear what you mean? Could you be more specific?

Mr. Gentry: Well, there is no written job description for a substitute teacher, simply put.

Mr. Booth: So that means that you have them doing anything. I mean, for my understanding, if someone is a substitute teacher, then they are coming in a classroom to fill in for a teacher that was absent. Is that correct?

Mr. Gentry: That's correct.

Mr. Booth: Are substitute teachers used as security guards?

Mr. Gentry: I can't respond to that.

Hearing Examiner: Mr. Booth, if you could, as I stated,

the issue in this case is whether or not you have a reasonable assurance for a return to work. You are varying -- you are varying from the testimony that Mr. Gentry has given; and additionally, you are getting off of the issue. Do you have any questions to ask him based on the testimony he has given?

Mr. Booth: Well, I think I am focusing on the issue.

Hearing Examiner: Well, I don't think so. Do you have any other questions?

Mr. Booth: Yes. You said that there was -- that I contact the office. What office? Do you have anything in writing that I'm supposed to contact any office or something, because there is no office that I was made aware of that I had to contact?

Hearing Examiner: All right.

Mr. Gentry: There is a document called policies and procedures which includes the direction that a substitute teacher would follow with regard to reporting to work, accepting assignments and the like.



Hearing Examiner: Are you offering that document as an exhibit?

Mr. Gentry: No, I'm not.

Hearing Examiner: Would the claimant have been given that document?

Mr. Gentry: The normal procedures for hiring substitute teachers is that they all receive this document.

Mr. Booth: I have not received any document like that.

Hearing Examiner: Okay. Can you show it to him since that is marked for identification.

Mr. Booth: I have not received any document like this --

Hearing Examiner: Okay.

Mr. Booth: -- indicating anything to that nature.

Hearing Examiner: That is noted for the record. Any other questions?

Mr. Booth: Yes, you mentioned about an orientation. When did that orientation take place, because I was never -- I never received any orientation through the school system?

Hearing Examiner: All right. What you are doing is you are asking questions and you are answering your own questions. You said, when was there an orientation.

Let him respond to that, okay?

Mr. Gentry: Orientations are given to substitute teachers on an as needed basis and as they are hired. It is not a formal arrangement where all substitute teachers come in and they meet. As you are hired, then you are given that orientation and told what to do.

Mr. Booth: I mean, but when are these kinds of things scheduled?

Mr. Gentry: When the person is hired.

Mr. Booth: I was not given an orientation.

Hearing Examiner: Is that a question? Is that a question.

Mr. Booth: No.

Hearing Examiner: Okay. Questions only.

Mr. Booth: At this point, no.

Hearing Examiner: You have no further questions?

Mr. Booth: No.

Hearing Examiner: Okay. I have one question to ask Mr. Gentry. Mr. Gentry, was the claimant an active substitute for the 1992-1993 school year?

Mr. Gentry: Yes.

Hearing Examiner: And is the claimant -- to your knowledge, did the claimant lack of being a substitute based on summer break or because of any other matter

which would have separated him  
from --

Mr. Gentry: I know of no other matter accept  
the summer break.

Hearing Examiner: Okay. All right, sir. Mr. Booth,  
you may present your case at this  
point.

Mr. Booth: Well, first of all, the school year  
-- he indicated that the school year  
had ended sometime around the middle  
of May.

Hearing Examiner: I'm sorry --

Mr. Booth: June.

Hearing Examiner: Yes.

Mr. Booth: The school term.

Hearing Examiner: Your testimony established the school  
year ended June 13th, 1993.

Mr. Booth: I didn't say June 13th.

Hearing Examiner: Okay.

Mr. Booth: The school term -- he said the school  
term ended somewhere in the middle of  
June.

Hearing Examiner: Okay. We are not going to quibble  
about that.

Mr. Booth: And I think that that is very important  
because I was denied benefits that  
started back in May. And I think that's

important to bring up. In addition to that, I never received any orientation. I never was informed, had any documentation regarding who or where to contact or to contact the -- I never had anything in regards to orientation.

Hearing Examiner: What is it? You didn't have any information regarding who to contact or you didn't have any orientation? Is it both or just one?

Mr. Booth: Both. Both.

Hearing Examiner: Okay.

Mr. Booth: And I also didn't have any -- which I think is very pertinent, any employee. I didn't even have a job description in terms of what exactly my -- I would be doing in the school system, and I am saying that because I have just recently submitted a letter to the superintendent of the school system and I am waiting for his response regarding some of the awful things that I experienced in the school system, which in a lot of ways did not relate in any way to being a substitute teacher. And I am very concerned about the way I was used. As I indicated in this document, I was

used very inappropriately in a lot of situations, and based upon these things that I am bringing down, also indicating down here, I did not have reasonable assurance, and I had no idea of when I will be called back to the school system. He said that there was an assurance list. And this is the first time I've ever seen such a list.

Hearing Examiner: Okay. Is that it, sir.

Mr. Booth: Yes.

Hearing Examiner: All right. Mr. Gentry, do you have any cross-examination questions to ask of Mr. Booth?

Mr. Gentry: None.

Hearing Examiner: Mr. Booth, I have a couple of questions to ask you. Initially, when I asked you the beginning of employment, you said October of 1992 and that you worked until June of 1993.

Mr. Booth: Uh-huh.

Hearing Examiner: You mentioned also that your benefits stopped as of May, 1993. Were you working as a substitute during May or late April of 1993? Were you working during that period as a substitute?

Mr. Booth: What are those dates again?

Hearing Examiner: Well, I should say the very beginning of May. Were you working during that period?

Mr. Booth: I can let you know. During May of '92.

Hearing Examiner: '93, sir.

Mr. Booth: I'm sorry. Yes, but I had sporadic -- beginning the entire month?

Hearing Examiner: Well, yes, overall for the month. Do you have an idea -- you have a calendar there.

Mr. Booth: Yes.

Hearing Examiner: Do you have an idea around how many ideas you worked in that period?

Mr. Booth: I filed partial payments.

Hearing Examiner: So you were receiving partial unemployment?

Mr. Booth: I was receiving partial unemployment benefits as a result of that.

Hearing Examiner: Yes, but do you have an overall idea of how many times you were a substitute during May?

Mr. Booth: For example, during -- let me see. That was one, two, three -- no work -- three, four days during the week of the 10th. One, two -- and this was because I was in a class for a while substituting for

a substitute.

Hearing Examiner: Okay, so you were given, basically, a sort of long term substitute job for one teacher who was out for a period?

Mr. Booth: He was out for quite a while.

Hearing Examiner: About a month or so?

Mr. Booth: Yes. He wasn't out the entire period in terms of my being able to become a long term sub.

Hearing Examiner: Okay.

Mr. Booth: He returned back to the classroom. He was also a sub.

Hearing Examiner: Was the person away for about a month, though?

Mr. Booth: In some classes the teacher was out. I was in a period where the person was out for an extended time.

Hearing Examiner: Did you have pretty consistent work during May and June of 1993, as a substitute?

Mr. Booth: No, ma'am.

Hearing Examiner: Did you have other work --

Mr. Booth: No.

Hearing Examiner: -- in another profession?

Mr. Booth: No, ma'am. But I do have another profession in which I've been actively looking for work in my regular career.

Hearing Examiner: Okay. And one other question. Are you aware that you can return to work as a substitute during the fall of 1993 when the school year begins in September?

Mr. Booth: No, I wasn't aware.

Hearing Examiner: Were you told that you could not return? Were you ever told you could not return?

Mr. Booth: No, I wasn't told that I could not return. However, again, if you go back to looking at some of the things that I had raised in this document here --

Hearing Examiner: Okay. Before you give anymore discussion on that, will you pass that to me?

Mr. Booth: Yes, ma'am.

Hearing Examiner: Mr. Booth is referring to a fact finding statement given to the Agency. Is there any objection for me to allow this to become an exhibit, Agency exhibit in this case?

Mr. Gentry: No objection.

Mr. Booth: No ma'am.

Hearing Examiner: All right. Then I will mark it as Agency Exhibit number 1. And what I would like to ask you about this



document, Mr. Booth, you have made various comments on this, discussing the way you were treated and why you worked as a substitute or quote-unquote non-teacher responsibilities that you were given.

Mr. Booth:

Uh-huh.

Hearing Examiner:

My question to you is whether or not you were ever told that as a result of your complaints, you could not work as as substitute any longer?

Mr. Booth:

By the school teachers, no.

Hearing Examiner:

Okay.

Mr. Booth:

However, the way that was dealt with is I submitted things in writing. For example, I had a student that threatened my life, and I submitted that to the principal in writing and instead of her dealing with that, what happened was, she didn't call me back to the school.

Hearing Examiner:

Were you on one school's list or a number of schools, to your knowledge?

Mr. Booth:

No, I was at Douglas.

Hearing Examiner:

Was that the only school?

Mr. Booth:

And I was at Walbrook.

Hearing Examiner:

Okay. So you were in two schools, high schools?

Mr. Booth: Right.

Hearing Examiner: And did you -- were you available for any other schools, elementary schools or middle schools?

Mr. Booth: No, because I do not choose to be around elementary school kids.

Hearing Examiner: Okay, so that was your decision to select these two schools.

Mr. Booth: Well, I was asked, where would you want to go, and I did not choose elementary schools. And I would also like to add to that, I did not choose some of the classes like industrial arts, science and music, because I'm not qualified to be in those classes.

Hearing Examiner: Okay. So you were given an opportunity to make a choice of where you wanted to work, is that correct?

Mr. Booth: And the subject. And I was very seldom ever placed in a classroom. Only one time since I've been in the school system was I placed in a class that was appropriate with the subject that I had requested to teach.

Hearing Examiner: Okay. And what was that, sir?

Mr. Booth: Social studies.

Hearing Examiner: Okay. I have no further questions.

What I'm going to do at this point is ask the employer's representative if you have a closing statement to make in this case?

Mr. Gentry: Well, the documents show that clearly Mr. Booth has reasonable assurance, and that is the issue that this hearing is held on. And in that case, the City stands by that and feels that as a result, he should be barred from benefits.

Hearing Examiner: Okay, and Mr. Booth, do you have a very brief closing statement?

Mr. Booth: Yes, ma'am. I wrote a letter again addressing the issues that I put in my document to the superintended of the public school system, Walter Embry.

Hearing Examiner: Anything regarding whether or not you have been refused to return to work?  
Anything --

Mr. Booth: And I spoke to him about those issues, and he has not replied to my letter as of yet.

Hearing Examiner: Okay. I'll let that stand as your closing. You will receive a written decision in the mail within the next two to four weeks --

Mr. Booth: Thank you.

Hearing Examiner: -- which will include your rights of  
appeal and procedure for doing so.

(Recess.)

TRANSCRIBER'S CERTIFICATE

This is to certify that the proceedings in the Petition of Keith Booth, Appeal No. 9314425, heard on August 3, 1993, were recorded by means of audio tape.

I do hereby certify that the foregoing pages constitute the official transcript of said audio taped proceedings to the best of my ability in a complete and accurate manner.

In Witness Whereof, I have hereunto subscribed my name this 7th day of March, 1994.

*Teresa S. Hinds*

---

Teresa S. Hinds, Transcriber

7/16/93

BALTIMORE CITY PUBLIC SCHOOLS  
DIVISION OF HUMAN RESOURCES AND LABOR RELATIONS  
REASONABLE ASSURANCE LISTING

PROGRAM-ID: AAPRR800

ER1

NAME	SOCIAL SECURITY#	DEPT	
BOONE	EARNESTIN	213-30-3257	EST
BOONE	JANICE	078-46-2653	P62
BOONE	JULIA B	446-42-9845	162
BOONE	KARL	213-34-9379	162
BOONE	PEARL C	213-26-9022	162
BOONE	ROBERT E	220-52-3379	EST
BOONE	RUTH B	231-60-3181	162
BOONE*	DOUGLAS	216-20-7687	EST
BOORMAN	ARTHUR D	305-54-7476	162
BOOTH	CARLETTA	212-44-6812	162
BOOTH	KEITH E	219-58-4423	EST
BOOTH	VERONICA	218-44-5869	P42
BOOTS	DEBORAH E	218-70-6088	A62
BOOZE	DELORES	219-40-7611	P62
BOOZER	RONALD S	179-32-0641	162
BOOZER	SARAH J	164-36-1610	162
BOOZER JR *	ROOSEVELT	200-32-8498	EST
BOOZER, JR.	ROOSEVELT	220-32-8498	EST
BOPP	KENNETH C	206-34-9379	162
BORAH	KENHOOD R	258-78-7584	162
BORDEN	ALFRED W	217-52-1114	162
BORDEN	HAROLD Y	216-40-4137	162
BORDEN	JO ANN H	218-48-4532	162
BORDEN	MORRIS A	220-52-0407	162
BORDERS	DENISE G	506-70-9338	M62
BORNFIEND	MARCIA S	220-52-3625	162
BORSELLA	KATHERINEM	212-42-6318	162
BORTZ	JOHN L	212-48-9428	162
BORTZ	PETER B	213-44-7576	162
BOSKIN	MARY B	213-52-9968	162
BOSKIN	MAUREEN I	217-48-8640	162
BOSLEY	SANDRA L	219-60-7221	162
BOSSARD	CYNTHIA	212-60-4194	162
BOST	RUTH A	216-30-8976	A62
BOSTON	BEVERLY D	212-36-8873	162
BOSTON	CHARLENE C	218-44-5154	162
BOSTON	DELORES B	216-34-2650	P62
BOSTON	FRANK D	216-34-8261	162
BOSTON	GENEVA	307-36-7815	A62
BOSTON	MARIAM G	219-52-4675	162
BOSTON	WILLIAM J	212-36-1578	A62
BOSTON	WILLIAM L	216-54-6926	162
BOSTON *	HAZEL	220-32-5232	EST
BOSHELL	GLORIA B	217-24-1218	162
BOSHORTH	GILDA N	218-48-2972	EST
BOTT	KAREN J	216-52-8448	162
BOTTERILL	DAVID R	152-26-3218	A62
BOTTO	JANET E	218-70-5153	P62
BOTWINIK	MIRIAM G	213-52-6436	162

7/16/93

BALTIMORE CITY PUBLIC SCHOOLS  
DIVISION OF HUMAN RESOURCES AND LABOR RELATIONS  
REASONABLE ASSURANCE LISTING

PROGRAM-ID: AAPRR800

NAME	SOCIAL SECURITY#	DEPT	
BOUL	NINA L	212-68-6691	162
BOULDIN	AUDREY M	219-50-2301	EST
BOULMARE	CHARLENE	217-62-0641	P62
BOUTON	BETSY A	340-42-6956	162
BOWDEN	ANDREA R	215-50-4369	162
BOWE	KIERAN P	151-34-3095	162
BOWE	SUSAN L	216-58-1971	162
BOWEN	DARLENE T	212-58-2986	A62
BOWEN	DORETHA	212-32-6365	A62
BOWEN	JOYCE E	214-38-7408	162
BOWENS	KAREN E	218-44-2795	162
BOWEN-HILSON	RENEE D	218-86-2579	162
BOWERS	DONNA H	577-64-6818	162
BOWERS	KATHERINER	217-78-3866	P62
BOWERS	MAXINE B	216-42-1574	162
BOWERSOX	MELINDA S	217-56-2873	162
BOWIE	JANE G	219-32-1623	162
BOWIE	SHARON A	213-70-0519	162
BOWLEY	BARBARA B	219-36-6512	162
BOWMAN	EVELYN C	219-52-2698	162
BOWMAN	JANET L	218-32-6134	162
BOWMAN	KATHLEEN D	198-26-2367	P62
BOWMAN	MARY P	217-54-0724	162
BOWMAN	ODESSA Y	213-32-5182	162
BOWSER	CORA M	215-28-0379	A62
BOWSER	GENEVA B	144-30-0540	162
BOWSER	JACQUELIND	212-58-6444	162
BOWSER	LANDERTH W	242-84-9901	A62
BOWYER	JOYCE	219-50-4398	162
BOYDALE	JOSEPH	219-30-6853	A62
BOYCE	DANIEL	212-44-4274	A62
BOYCE	VERONICA M	216-32-0441	A62
BOYD	ARNETTA J	218-42-9577	162
BOYD	BRENDA J	219-52-8528	P62
BOYD	CARROLL H	216-42-3581	A62
BOYD	DEBORAH Y	013-48-9929	EST
BOYD	DEBIRAH	214-68-2817	A62
BOYD	EVERLEAN	230-64-8797	P62
BOYD	GEORGIANH	217-30-3115	A62
BOYD	GERALD B	214-44-9290	162
BOYD	MARY	219-38-8304	162
BOYD	MARY D	213-58-4037	162
BOYD	MICHAEL A	213-88-2094	A62
BOYD	NATHANIEL	215-52-0156	162
BOYD	NIKIE Y	219-38-3143	162
BOYD	OCTAVIA N	213-88-4048	P62
BOYD	STACEY E	217-04-3402	162
BOYD	THELMA	218-88-8573	162

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STATE OF MARYLAND  
DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT  
OFFICE OF UNEMPLOYMENT INSURANCE

*131*

Claim Cert Filed

**FACT FINDING REPORT**

Date Conducted 6/28/93  
 Claimant's Name Keith Booth  
 Social Security Number 219-58-4423  
 Effective Date: 7-21-92  
 Occupation: \_\_\_\_\_  
 Unresolved Issue (H02)  
 Create and Resolve Issue (H03)  
 Redetermination/Corrected Determination (H05)  
 Issue: EST

**CLAIMANT'S STATEMENT**

Claimant present? YES  NO  If no, how contacted? \_\_\_\_\_  
 FRO  SR6 Sent Date: \_\_\_\_\_ SR6 Returned? Yes  No   
 Name of employer: EST  
 FDW: 3-27-92 LDW: 6-11-93 Rate of Pay: \$ 45.00

*I am not working as an emergency substitute teacher presently due to the normal school closing for the summer. I work on call at a rate of \$ 45.00 per day. I am going to substitute when school resumes in the fall of 1993. If I am not called then I will not return. Currently I am looking for fulltime employment.*

*I do not agree with above statement written by Claims Examiner in Above R.B. I am not working as an emergency substitute teacher presently due to no reasonable assurance on contract with School System, further, I am not a teacher and I have been used inappropriately within the School System. I have been in classes without lesson plans and without a developed curriculum for the students. I've been inappropriately used as a search guard for students. Further, I've had been in classes with students that were not needed to be assigned to the classes. I was assigned temporarily.*

Are you able, available and actively seeking full-time work? YES  NO  If no, explain. If yes, list recent contacts: \_\_\_\_\_

*I am actually seeking full-time employment and plan to look for a way to work in my professional field of health care. If I have not found employment by Fall of 1993, I will work if contacted in appropriate substitute teacher position.*

Claimant's Rebuttal: *With exception of one assigned substitute teacher assignments have been extremely in appropriate.*

I have read and hereby affirm under penalties of perjury that the foregoing information is true and correct to the best of my knowledge, information and belief.

Claimant's Signature: *Keith Booth*

**EMPLOYER'S STATEMENT**

Employer called 6/28, 30/93  
 Name of employer/company: EST  
 Separation notice received: \_\_\_\_\_ 207  Employer Letter  Other   
 LDW: 6-11-93 Reason for separation from above: \_\_\_\_\_

Employer contacted by phone? Yes  No  Telephone number: \_\_\_\_\_  
 Name of company officer: D. J. Long Position/title: \_\_\_\_\_  
 Claimant present when telephone information was received? Yes  No   
*NO reasonable assurance list available as of yet. 7/1/93*

*45*

**UNEMPLOYMENT INSURANCE APPEALS DECISION**

KEITH E. BOOTH  
932 N. COLLINGTON AVE  
BALTIMORE, MD 21205-

SSN #219-58-4423  
Claimant

vs.

EMERGENCY SUB TEACHER  
C/O PERSONNEL TECH  
111 N CALVERT ST  
BALTO, MD 21202-

Employer/Agency

Before the:

Maryland Department of Economic and  
Employment Development  
Appeals Division  
1100 North Eutaw Street  
Room 511  
Baltimore, MD 21201  
(401) 333-5040

Appeal Number: 9314425  
Appellant: Claimant  
Local Office: 01 / Baltimore

August 18, 1993

For the Claimant: PRESENT

For the Employer: GEORGE GENTRY

For the Agency:

**ISSUE(S)**

Whether the claimant is unemployed between academic years or terms, or during a customary vacation period, from an educational institution and has reasonable assurance of returning to work within the meaning of MD Annotated Code, Labor and Employment Article, Title 8, Section 909.

**FINDINGS OF FACT**

The claimant began his employment as a substitute teacher during October, 1992. Throughout the 1992 - 1993 school term, the claimant earned \$45 per day. He was an on-call employee, and received if there was a vacancy available at two of the schools he selected to work for, Douglas High School and Walbrook High School until the end of the school term, June 13, 1993. As a result of the summer break, the claimant has not been called to work as a substitute teacher. However, the employer has the claimant on the substitute list for the 1993 - 1994 school year. The employer's eligibility list which includes the claimant's name, was dated July 16, 1993, confirming that the claimant is eligible to return to work for the successive school term.

Although the claimant's unemployment insurance benefits stopped as of May 9, 1993, the claimant earned wages in excess of his weekly unemployment insurance benefits amount of \$223 because he

DEC

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recently worked as a substitute from May 10 until the end of the school year, June 13, 1993. He was not discharged from his responsibility of working for the school system as a substitute teacher.

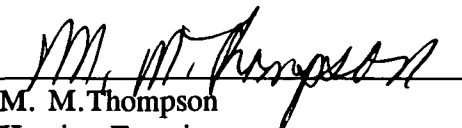
### CONCLUSIONS OF LAW

Maryland Unemployment Insurance Law, Title 8, Section 909 states Educational institutions between term denials. Subsection (a) states other employees - (1) an individual is not eligible for benefits based on covered employment performed for an educational institution or for a governmental entity or non-profit organizations on behalf of an educational institution and in an instructional principal, administrative or a research capacity any week of employment that begins during a period between two successive academic terms or if ...." and (ii) there is reasonable assurance that the individual would perform the covered employment in the second term or year. The employer's eligibility substitute teacher employment list for the 1993 - 1994 school year confirms that the claimant has a reasonable assurance for the return to work during that season. Since the claimant has worked for the school system as a substitute during the 1992 through 1993 school year, he is not entitled to unemployment insurance benefits during the summer break because he has reasonable assurance for a return to work during the successive school term.

### DECISION

It is held that he claimant had a reasonable assurance, under Maryland Unemployment Insurance Law, Title 8, Section 909 of performing services for an educational institution of the academic year beginning September, 1993. He is disqualified from receiving benefits based on service with the Baltimore City Emergency Substitute Teacher Department from June 13, 1993 and until the beginning of the academic year in September, 1993.

The determination of the Claims Examiner is affirmed.

  
M. M. Thompson  
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 Economic and Employment Development, or with the Board of Appeals, Room 515, 1100 North Eutaw Street, Baltimore, MD 21201. Your appeal must be filed by September 2, 1993.

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

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Date of hearing: August 3, 1993  
cld/Specialist ID: 01070  
Seq. No.: 010  
Copies mailed on August 18, 1993 to:

KEITH E. BOOTH  
EMERGENCY SUB TEACHER  
LOCAL OFFICE #01

Appeal Number 9314425  
Page 4

For the File



has not ~~completely~~ complied with its own agreement. I do not receive regular re-assurance. Because of the speed upon assignment requested with the system I never and will be not reasonable assured of employment regular. I have not request to teach in the public school system. I am actively seeking employment in another capacity of traditional work.

7/21/93

**UNEMPLOYMENT INSURANCE APPEALS DECISION**

KEITH E. BOOTH  
932 N. COLLINGTON AVE  
BALTIMORE, MD 21205

**RECEIVED**  
LOCAL #01—ROOM 121

SSN #219-58-4423

Claimant AUG 20 1993

vs.

STATE OF MARYLAND  
Unemployment Insurance Administration  
BALTIMORE, MD. 21201

EMERGENCY SUB TEACHER  
C/O PERSONNEL TECH  
111 N CALVERT ST  
BALTO, MD 21202-

Employer/Agency

Before the:

Maryland Department of Economic and  
Employment Development  
Appeals Division  
1100 North Eutaw Street  
Room 511  
Baltimore, MD 21201  
(401) 333-5040

Appeal Number: 9314425  
Appellant: Claimant  
Local Office: 01 / Baltimore

August 18, 1993

For the Claimant: PRESENT

For the Employer: GEORGE GENTRY

For the Agency:

**ISSUE(S)**

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recently worked as a substitute from May 10 until the end of the school year, June 13, 1993. He was not discharged from his responsibility of working for the school system as a substitute teacher.

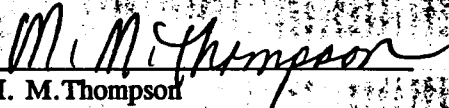
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M. M. Thompson  
Hearing Examiner

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Date of hearing: August 3, 1993  
cld/Specialist ID: 01070  
Seq. No.: 010  
Copies mailed on August 18, 1993 to:

KEITH E. BOOTH  
EMERGENCY SUB TEACHER  
LOCAL OFFICE #01



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Appeal Number 9314425  
Page 4

BALTIMORE U.I. OFFICE APPEALS DIVISION - ROOM 511  
1100 North Eutaw Street  
Baltimore, MD 21201

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**DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT**

STATE OF MARYLAND  
BOARD OF APPEALS - ROOM 515  
1100 NORTH EUTAW STREET  
BALTIMORE, MARYLAND 21201  
333-5032

WILLIAM DONALD SCHAEFER  
Governor

**NOTICE OF APPEAL**

Claimant's Name: **KEITH E. BOOTH**  
Employer's Name: **EMERGENCY SUB TEACHER**  
Date Mailed: **09/29/93**  
Appeal No.: **9314425**  
SS No.: **219-50-4423**

**CLAIMANT**

Appellant:

The Board of Appeals has received an appeal in this case. The Board may deny a petition for review, it may decide the case on the record already established, or it may grant a hearing. You will be notified in the future of the Board's action.

The Board's action may change the result of the Examiner's decision. If the Claimant has been previously disqualified from benefits, that disqualification may be affirmed, modified or reversed. If the Claimant has been granted benefits, a partial or total disqualification may be imposed by the Board's action. If this occurs, the Claimant may be required to pay back some or all of the benefits received.

It is the duty of all parties to keep the Board of Appeals notified of their current address. Please write to the Board at Room 515, 1100 North Eutaw Street, Baltimore, MD 21201 if your address changes.

THIS IS NOT A HEARING NOTICE

C01

KEITH E. BOOTH  
932 N. COLLINGTON AVENUE  
BALTIMORE, MD 21205

Mail To:

PAUL G. ZIMMERMANN

COUNSEL

EMERGENCY SUB TEACHER  
C/O PERSONNEL TECH  
111 N. CALVERT STREET  
BALTIMORE, MD 21202

55

**DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT**

STATE OF MARYLAND  
BOARD OF APPEALS - ROOM 515  
1100 NORTH EUTAW STREET  
BALTIMORE, MARYLAND 21201

333-5032

WILLIAM DONALD SCHAEFER  
Governor

**NOTICE OF APPEAL**

Claimant's Name	Employer's Name	Date Mailed	Appeal No.	SS No.
KEITH E. BOOTH	EMERGENCY SUB TEACHER	09/29/53	9314425	219-53-4423

**CLAIMANT**

THIS IS NOT A HEARING NOTICE

Appellant:

The Board of Appeals has received an appeal in this case. The Board may deny a petition for review, it may decide the case on the record already established, or it may grant a hearing. You will be notified in the future of the Board's action.

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EMERGENCY SUB TEACHER  
C/O PERSONNEL TECH  
111 N. CALVERT STREET  
BALTIMORE, MD 21202

FAUL G. ZIPPERMANN

COUNSEL

Mail To:

KEITH E. BOOTH  
932 N. COLLINGTON AVENUE  
BALTIMORE, MD 21205

 **Maryland**  
Department of Economic &  
Employment Development

*William Donald Schaefer*  
Governor  
*Mark L. Wasserman*  
Secretary

*Board of Appeals*  
1100 North Eutaw Street  
Baltimore, Maryland 21201  
Telephone: (410) 333-5032

*Thomas W. Keech, Chairman*  
*Hazel A. Warnick, Associate Member*  
*Donna P. Watts, Associate Member*

**- DECISION -**

	Decision No.:	1892-BR-93
	Date:	November 9, 1993
Claimant:	Keith E. Booth 932 N. Collington Ave. Baltimore, MD 21205	Appeal No.: 9314425 S.S. No.: 219-58-4423
Employer:	Emergency Sub Teacher c/o Personnel Tech. 111 N. Calvert St. Baltimore, MD 21202	L. O. No.: 1 Appellant: CLAIMANT
Issue:	Whether the claimant had a contract or reasonable assurance of returning to work under §8-909 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 or 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 of Maryland, Maryland Rules*, Volume 2, B rules.

The period for filing an appeal expires **December 9, 1993**

**- APPEARANCES -**

FOR THE CLAIMANT:

FOR THE EMPLOYER:


**REVIEW ON THE RECORD**

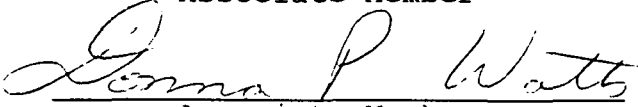
Upon review of the record in this case, the Board of Appeals adopts the findings of fact and the conclusions of law of the Hearing Examiner.

DECISION

The claimant had a reasonable assurance of working in an instructional capacity at the beginning of the next following academic term, within the meaning of §8-909(a)(2) of the law. He is disqualified from the receipt of benefits based on service performed for the Baltimore City Emergency Substitute Teacher Department from June 13, 1993 and until the beginning of the academic year in September, 1993.

The decision of the Hearing Examiner is affirmed.

  
Associate Member

  
Associate Member

kmb

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - BALTIMORE

Circuit Court for Balto. City  
111 N. Calvert St. Rm. 462  
21202

William R. Phelan, Jr.  
Senior Solicitor  
Dept. of Law  
City Hall, LL49  
100 Holliday Street  
Baltimore, Maryland 21202

Circuit Court for Balto. City  
111 N. Calvert St. Rm. 462  
21202

Keith E. Booth  
932 N. Collington Avenue  
Baltimore, Maryland 21205

Circuit Court for Balto. City  
111 N. Calvert St. Rm. 462  
21202

Lynn M. Weiskittel  
Asst. Atty. General  
Michele McDonald, Staff Atty.  
217 E. Redwood St. - 11th Fl.  
Baltimore, Maryland 21202

NOTICE SENT IN ACCORDANCE WITH MARYLAND RULE 7-207

Keith E. Booth

Docket: .....

vs.

Folio: .....

Board of Appeals Dept. of  
Economic & Employment Development

File: 93330026/CL173161

Date of Notice: 3-18-94

STATE OF MARYLAND, ss:

I HEREBY CERTIFY, That on the 17th day of March  
Nineteen Hundred and ninety-four, I received from the Administrative  
Agency, the record, in the above captioned case.

SAUNDRA E. BANKS, Clerk  
Circuit Court for Baltimore City

CC-39

MARYLAND RELAY SERVICE VOICE 1-800-735-2258



NOTICE SENT IN ACCORDANCE WITH MARYLAND RULE 7-207

Keith Booth

Docket: .....

vs.

Folio: .....

Board of Appeals Dept. of  
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NOTICE SENT IN ACCORDANCE WITH MARYLAND RULE 7-207

Keith E. Booth

Docket: .....

vs.

Folio: .....

Booth of Appeals Dept. of  
Economic & Employment Development

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SAUNDRA E. BANKS, Clerk  
Circuit Court for Baltimore City

CC-39

MARYLAND RELAY SERVICE VOICE 1-800-735-2258



WDB

RECEIVED  
CIRCUIT COURT FOR  
BALTIMORE CITY  
94 MAR -8 PM 2:28  
CIVIL DIVISION

KEITH E. BOOTH : IN THE  
 Appellant : CIRCUIT COURT FOR  
 vs. : BALTIMORE CITY  
 EMERGENCY SUB TEACHER :  
 and :  
 BOARD OF APPEALS :  
 Department of Economic and :  
 Employment Development : 93330026/CL173161  
 Appellees :  
 :  
 :

: : : : : : : : : :

**RESPONSE TO PETITION**

The Mayor and City Council of Baltimore ("the City"), one of the Appellees, by its attorney, William R. Phelan, Jr., Senior Solicitor, states in response to the Petition filed by the Appellant:

1. The City, as the corporate entity which employs emergency substitute teachers in the Baltimore City Schools, is the proper appellee-employer.
2. The City intends to participate in the action for judicial review.

*William R. Phelan Jr.* #65857  
 WILLIAM R. PHELAN, JR.  
 Senior Solicitor  
 Department of Law  
 City Hall, LL49  
 100 Holliday Street  
 Baltimore, Maryland 21202

DL



(410) 396-4094  
Attorney for Mayor and City  
Council of Baltimore

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 8<sup>th</sup> day of March, 1994, a copy of the foregoing Response to Petition was mailed to Keith E. Booth, 932 N. Collington Avenue, Baltimore, Maryland 21205; and to Lynn M. Weiskittel, Assistant Attorney General, Rachel Nunn, Staff Attorney, and Michele McDonald, Staff Attorney, 217 East Redwood Street, 11th Floor, Baltimore, Maryland 21202.

William R. Phelan, Jr.  
WILLIAM R. PHELAN, JR.  
Senior Solicitor

WRP:v  
3-7-94

RECEIVED  
CIRCUIT COURT FOR  
BALTIMORE CITY

1994 FEB 28 A 7 05

CIVIL DIVISION

KEITH E. BOOTH  
Appellant,

v.

EMERGENCY SUB TEACHER

and

BOARD OF APPEALS,  
Department of Economic and  
Employment Development,  
Appellees.

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* Civil Action No.  
93330026/CL173161  
\*  
\*

RESPONSE TO PETITION

The Board of Appeals (the "Board"), Department of Economic and Employment Development, in response to Appellant's Petition states:

1. The Board intends to participate in the action for judicial review.
2. The Board denies the allegations in the Petition.
3. Section 8-512(d) of the Labor and Employment Article, Maryland Code, confines the jurisdiction of the court to questions of law, and this is not a trial de novo.
4. The findings of the Board are conclusive because they are supported by substantial evidence, and there is no error of law.

WHEREFORE, the Board requests its decision be AFFIRMED.

Respectfully submitted,

J. JOSEPH CURRAN, JR.  
Attorney General of Maryland

911 960

*Lynn M. Weiskittel*  
Lynn M. Weiskittel, Asst, Atty. General  
Rachel Nunn, Staff Attorney  
Michele McDonald, Staff Attorney  
217 E. Redwood St. - 11th Floor  
Baltimore, MD 21202  
(410) 333-4813

CERTIFICATE OF COMPLIANCE AND SERVICE

I HEREBY CERTIFY that on this 25th day of February, 1994, a written notice of this appeal and a copy of this Response were mailed to Keith E. Booth, 932 N Collington Ave, Balto MD 21205 and to William R. Phelan, Jr., Senior Solicitor, Dept of Law, City Hall, 100 Holliday St, Balto MD 21202.

*[Signature]*  
\_\_\_\_\_  
Attorney

208

CASE No: 9330026/CL 173/61

Keith Booth  
932 N. Collington Avenue  
Baltimore, Maryland 21205

January 17, 1994


Donna P. Watts  
Associate Member  
Board of Appeals  
1100 North Eutaw Street  
Baltimore, Maryland 21201

REF:1892-BR-93=

RECEIVED  
CIRCUIT COURT FOR  
BALTIMORE CITY  
94 JAN 17 PM 2:38  
CIVIL DIVISION

Dear Ms. Watts:

This letter is in response to the above case regarding request for a hearing in the Circuit Court for Baltimore City. To add, I am pleading for the Judge at Baltimore City Circuit court to grant me an "Oral" hearing instead of a tape recording. I strongly feel that the "Board of Appeals" hearing was censored and biased.

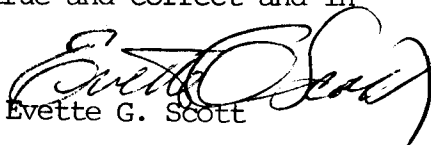
Sincerely,  
  
Keith Booth

CC: Circuit Court Balt. City  
Certified Mailed

State of Maryland  
City of Baltimore

I Hereby Certify that on this 17th day of January 1994, that the Subscriber, a Notary Public in the State of Maryland and in the City of Baltimore, personally appeared Keith Booth and acknowledged that the above is true and correct and in my presence signed same.

My Commission Expires: 9/1/94

  
Evette G. Scott

PR

IN THE CIRCUIT COURT FOR BALTIMORE CITY

RECEIVED  
CIRCUIT COURT FOR  
BALTIMORE CITY

PETITION OF Keith E. Booth  
(name and address)

\* 93 NOV 26 PM 12: 25

932 N. Collington Avenue Balt. Md 21205

\* CIVIL DIVISION

FOR JUDICIAL REVIEW OF THE DECISION OF THE  
BOARD OF APPEALS, DEPARTMENT OF ECONOMIC  
AND EMPLOYMENT DEVELOPMENT, 1100 N. Eutaw  
St., Baltimore, MD. 21201

\* **93330026**  
\* CIVIL ACTION

\* No. CL173161

IN THE CASE OF Keith E. Booth  
(petitioner)

v. Emergency Sub Teacher c/o Personnel Tech.  
111 N. Calvert Street Balt. Md. 21202

\*

\*

\*

(name of employer)  
and BOARD OF APPEALS, DEPARTMENT OF  
ECONOMIC AND EMPLOYMENT DEVELOPMENT,  
APPEAL NO. 1892-BR-93

\*

\*

PETITION

1. Petitioner requests judicial review of decision no. 1892-BR-93  
dated 11-9-93 of the Board of Appeals denying Petitioner  
unemployment insurance benefits.

2. Petitioner was a party to the above agency proceeding.

Respectfully submitted,

Keith E. Booth 711-26-93

Petitioner  
Telephone No.:

*Copy sent*

**COSTS WAIVED**

**MSAREF.NET, MSA SC 5458**  
**An Archives of Maryland Publication**

*D. Lee*  
*2-19-10*  
*Image 124*

| ▶ **Edit & Modify Entries** | ▶ **Search** | ▶ **Search MAILREF** | ▶ **Contact Webmaster** | ▶ **Home** | ▶ **End Session**

**MSA SC 5458-82-152**

**Dates:** 2010/02/17

**Description:** Case numbers received from J. Hollander -

BALTIMORE CITY CIRCUIT COURT (Paternity Papers) Arrington v. Rodriguez, 1989, Box 169  
 Case No. 119070 [MSA T3351-923, CW/16/31/25]  
 File should be named msa\_sc5458\_82\_152\_[full case number]-####

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Rolnik v. Union Labor Life  
 Ins. Co., 1987, Case No. 87313071  
 Case is split between 2 boxes:  
 Box 387 [MSA T2691-2026, HF/8/35/8]  
 Box 388 [MSA T2691-2027, HF/8/35/9]  
 File should be named msa\_sc5458\_82\_152\_[full case number]-####

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Shofer v. The Stuart Hack  
 Co., Box 128 Case No. 88102069 [MSA T2691-2232, HF/11/30/3]  
 See also for "brick binders":  
 Box 527 [MSA T2691-2631, HF/11/38/18]  
 Box 528 [MSA T2691-2632, HF/11/38/19]  
 File should be named msa\_sc5458\_82\_152\_[full case number]-####

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Attorney Grievance  
 Commission v. Yacono, 1992, Box 1953 Case No. 92024055 [MSA T2691-4591,  
 OR/12/14/65]  
 File should be named msa\_sc5458\_82\_152\_[full case number]-####

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Feldmann v. Coleman,  
 1993, Box 391 Case No. 93203022 [MSA T2691-5466, OR/22/08/037]  
 File should be named msa\_sc5458\_82\_152\_[full case number]-####

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Jefferson v. Ford Motor  
 Credit Corp., 1993, Box 470 Case No. 93251040 [MSA T2691-5545, OR/22/10/20]  
 File should be named msa\_sc5458\_82\_152\_[full case number]-####

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Shofer v. The Stuart Hack  
 Co. and Blum, Yumkas, Mailman, 1993, Box 518 Case No. 93285087 [MSA T2691-5593,  
 OR/22/11/20]  
 File should be named msa\_sc5458\_82\_152\_[full case number]-####

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Booth v. Board of Appeals,  
 1993, Box 589 Case No. 93330026 [MSA T2691-5665, OR/22/12/45]  
 File should be named msa\_sc5458\_82\_152\_[full case number]-####

*D. Lee*  
*2-19-10*  
*Image 124*

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Scott v. Dept. of Public  
 Safety, 1993, Box 603 Case No. 93342002 [MSA T2691-5679, OR/22/13/11]  
 File should be named msa\_sc5458\_82\_152\_[full case number]-####