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DISTRICT OF COLUMBIA COURT OF APPEALS

No. 06-AA-984

RONDA L. DIXON, PETITIONER,

v.

DISTRICT OF COLUMBIA DEPARTMENT
OF EMPLOYMENT SERVICES, RESPONDENT.

Petition for Review of a Decision of the
Office of Administrative Hearings
(OAH ES-P-06-104426)

(Submitted September 4, 2008)

Decided September 11, 2008)

Ronda L. Dixon, *pro se*.

Peter J. Nickles, Interim Attorney General for the District of Columbia, and *Todd S. Kim*, Solicitor General, *Donna M. Murasky*, Deputy Solicitor General, and *Michael A. Milwee*, Senior Assistant Attorney General, for respondent.

Before NEWMAN, PRYOR and SCHWELB, *Senior Judges*.

PER CURIAM: After a Claims Examiner found petitioner Ronda Dixon eligible for unemployment compensation, the District of Columbia Department of Employment Services (“DOES”) began paying unemployment benefits to her. Dixon’s employer appealed and the Office of Administrative Hearings (“OAH”) issued a final order reversing the Claims Examiner and finding Dixon to be ineligible. Dixon did not seek review of that decision. Subsequently, DOES issued a notice of determination of overpayment, seeking to recover the \$1,988 that the agency erroneously paid to Dixon. OAH affirmed the overpayment

determination, which Dixon now petitions for review, claiming that it is unfair for DOES to seek repayment.

DOES is required to disburse unemployment benefit payments as soon as a claimant is found eligible and before an employer's appeal is decided. *See California Dep't of Human Res. Dev. v. Java*, 402 U.S. 121, 133-34 (1971). However, if an initial determination of eligibility is later reversed, then DOES may exercise its discretion, pursuant to D.C. Code § 51-119 (d) (2001), to recover benefits paid to the claimant as an overpayment. The claimant may appeal determinations of overpayment and is entitled to an administrative hearing. D.C. Code § 51-119 (d)(2) (2001). Although Dixon argues that this policy is unfair, its purpose "is to ensure that the unemployment compensation fund is not depleted except for valid benefit payments, thus preserving the limited resources of the fund." *Campbell v. Labor & Indus. Relations Comm'n*, 907 S.W.2d 246, 250 (Mo. Ct. App. 1995). We see no abuse of discretion. *See generally Johnson v. United States*, 398 A.2d 354 (D.C. 1979). Accordingly, the petition on review is denied.

So ordered.