



DEPARTMENT OF HUMAN RESOURCES  
EMPLOYMENT SECURITY ADMINISTRATION

1100 NORTH EUTAW STREET  
BALTIMORE, MARYLAND 21201

STATE OF MARYLAND

HARRY HUGHES  
Governor

KALMAN R. HETTLEMAN  
Secretary

383 - 5032  
- DECISION -

BOARD OF APPEALS

JOHN J. KENT  
Chairman

HENRY G. SPECTOR  
HAZEL A. WARNICK  
Associate Members

SEVERN E. LANIER  
Appeals Counsel

DECISION NO.: 1043-BH-81

DATE: November 2, 1981

APPEAL NO.: 15730

S. S. NO:

CLAIMANT: John Fisher

EMPLOYER: Fisher Products Corp.

L.O NO: 1

APPELLANT: CLAIMANT

ISSUE

Whether the Claimant was able to work, available for work and actively seeking work within the meaning of Section 4(c) of the Law; and whether the Claimant was unemployed within the meaning of Section 20(1) of the Law.

NOTICE OF RIGHT OF APPEAL TO COURT

YOU MAY FILE AN APPEAL FROM THIS DECISION IN ACCORDANCE WITH THE LAWS OF MARYLAND. THE APPEAL MAY BE TAKEN IN PERSON OR THROUGH AN ATTORNEY IN THE SUPERIOR COURT OF BALTIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT

December 2, 1981

-APPEARANCES-

FOR THE CLAIMANT:

John Fisher - Claimant  
Nesbit V. Fisher - Wife

FOR THE EMPLOYER:

Same

EMPLOYMENT SECURITY ADMINISTRATION  
John Zell - Legal Counsel

EVIDENCE CONSIDERED

The Board of Appeals has considered all of the evidence presented, including the testimony offered at the hearings. The Board has also considered all of the documentary evidence introduced into this case, as well as Employment Security Administration's documents in the appeal file.

### FINDINGS OF FACT

The Claimant and his wife are, respectively, president and secretary/treasurer of the Fisher Products Corp., a family corporate business. The corporation has been in existence since 1959.

For several years prior to March of 1980, the corporation was engaged exclusively in the home building business. The Claimant was a salaried employee of the business .

on March 20, 1980, the business went out of operation due to a lack of orders, but the corporation was not dissolved.

The Claimant performed no services for the corporation except to respond to complaints concerning defects in houses that had been previously built. The Claimant received no wages or remuneration of any kind for this work. His work consumed from a few hours to a half day of the Claimant's time, about once every three weeks. The Claimant did no bidding, cost estimating or sales work for the corporation during the period between December of 1980 and March of 1981.

The Claimant filed for unemployment insurance benefits in December of 1980. The Claimant looked for work in his previous occupation, personally visiting places as far away as Washington, D.C. and Glen Burnie, Maryland. The Claimant was obviously searching in a depressed industry, but his method of seeking work was honestly designed to find employment. He also sought work in the home improvement field and in retail car sales.

In April of 1980, the Claimant began to seek business for the corporation obtaining home improvement contracts.

### CONCLUSIONS OF LAW

During the period for which claims were filed, the Claimant was unemployed within the meaning of Section 20(1) of the Law.

In the Fourtinakis case, Board Decision No. 870-BH-81, the Board ruled that the test of whether the person meets the definition of 20(1) of the Law is whether that individual has performed services with respect to which wages are paid or payable. In the Gleason case, Board Decision No. 1033-BH-81, the Board held that there is no special exception to this rule for corporate officers .

The Claimant in this case was performing no services for which wages were payable during the period in which he filed claims. He thus clearly met the definition of "unemployed" in Section 20(1) of the Law.

As the Board made clear in the Gleason case, it is appropriate to closely examine the eligibility of corporate officers under Section 4(c) of the Law. For this reason, the issue was raised and litigated at the Board level. The Claimant's actions in energetically seeking work in his own field and other fields, in his own geographical area and other areas, showed that he was honestly seeking full-time, permanent work. The Claimant was able, available and actively seeking work within the meaning of Section 4(c) of the Maryland Unemployment Insurance Law.

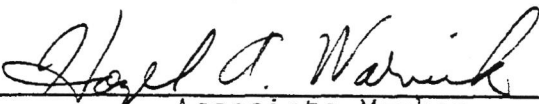
DECISION

The Claimant is not disqualified under Section 20(1') of the Maryland Unemployment Insurance Law.

The Claimant was able, available and actively seeking work within the meaning of Section 4(c) of the Maryland Unemployment Insurance Law. He is eligible for benefits from the week beginning November 30, 1980, until the week ending March 14, 1981, if he is otherwise eligible for benefits.

The decision of the Appeals Referee is reversed.

  
\_\_\_\_\_  
Chairman

  
\_\_\_\_\_  
Associate Member

DATE OF HEARING: October 27, 1981

COPIES MAILED TO:

CLAIMANT

EMPLOYER

John Zell - Legal Counsel

UNEMPLOYMENT INSURANCE - BALTIMORE



DEPARTMENT OF HUMAN RESOURCES  
 EMPLOYMENT SECURITY ADMINISTRATION  
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 Associate Members

SEVERN E. LANIER.  
 Appeals Counsel

GARY SMITH  
 Chief Hearings Officer

- DECISION -

CLAIMANT :John Fisher

DATE: May 22, 1981

APPEAL NO.: 15730

S. S. NO.:

EMPLOYER: Fisher Products Corp.

L. O. NO.: 1

APPELLANT: Claimant

ISSUE:  
 Whether the claimant was unemployed within the meaning of Sections 4 and 20(1) of the Law.

NOTICE OF RIGHT TO PETITION FOR REVIEW

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A REVIEW AND SUCH PETITION FOR REVIEW MAY BE FILED IN ANY EMPLOYMENT SECURITY OFFICE, OR WITH THE APPEALS DIVISION, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL.

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON June 8, 1981

- APPEARANCES -

FOR THE CLAIMANT:

FOR THE EMPLOYER:

John Fisher, Present  
 Nesbit V. Fisher, his wife, Witness

FINDINGS OF FACT

The claimant and his wife are President and Secretary/Treasurer of the Fisher Products Corporation, a family corporate business. The corporation has been in existence since 1959.

is to build and to do home improvements . The last job that the corporation was involved in was in 1979. Thereafter in March, 1980 the claimant discontinued the business phone due to lack of business. The claimant maintains his home improvement license. The corporation has remained in existence and the claimant has begun business operations in mid-April of 1981. The claimant filed for unemployment insurance benefits establishing a benefit year effective November 30, 1980. His weekly benefit amount is \$120. The claimant was paid benefits by the agency for fifteen weeks between December 6, 1980 and March 14, 1981.

COMMENTS

The evidence presented leads to the conclusion that the claimant is not unemployed within the meaning and intent of Section 4 and 20(1) of the Maryland Unemployment Insurance Law. Although actual business operations discontinued for a period of time, the claimant remains the President of a viable corporation and holder of a valid home improvement license. Under these circumstances his status was not that of a person unemployed within the meaning of Section 4 and 20(1) of the Law.

DECISION

The claimant was not unemployed within the meaning of Section 4 and 20(1) of the Maryland Unemployment Insurance Law. Benefits are denied from November 30, 1980, the effective date of the claim, and thereafter until he becomes unemployed and meets eligibility requirements of the Statute.

The determination of the Claims Examiner is affirmed.

Date of hearing: May 12, 1981

Cassette: 7607

hf (J). T. Lyde)

COPIES MAILED TO:

Claimant  
Employer  
Unemployment Insurance-Baltimore