

# Maryland

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

1100 North Eutaw Street  
Baltimore, Maryland 21201  
(301) 333-5033



William Donald Schaefer, Governor  
J. Randall Evans, Secretary

**BOARD OF APPEALS**

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

**— DECISION —**

	Decision No.:	1175-BH-88
	Date:	Dec. 19 , 1988
Claimant: Angela Lewis	Appeal No.:	88-UCF-169
	S. S. No.:	
Employer: Minneapolis Postal Data Center	L. O. No.:	1
	Appellant:	CLAIMANT
Issue:	Whether the claimant was able to to work, available for work and actively seeking work within the meaning of Section 4(c) 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 MAYBE TAKEN IN PERSON OR THROUGH AN ATTORNEY IN THE CIRCUIT COURT OF BALTIMORE CITY, IF YOU RESIDE IN BALTIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

January 18 , 1989

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

**— APPEARANCES —**

FOR THE CLAIMANT:

Angela Lewis, Claimant

FOR THE EMPLOYER:

Employer not represented

## EVALUATION OF EVIDENCE

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 in this case, as well as the Department of Economic and Employment Development's documents in the appeal file.

## FINDINGS OF FACT

The claimant has been employed with the United States Postal Service as a multi-purpose clerk from approximately August 3, 1986 and she continues to work there at the present time. Her primary duty is working the letter sorter machine, but her job description is not limited to that function.

On or about June 12, 1988, the claimant went on a temporary medical leave of absence as a result of an off-the-job injury to her wrist. Her arm was placed in a half cast but her fingers were still free. She was instructed by her physician that she could return to work immediately as long as she performed light duty work and did not use her arm to a great extent.

Consequently, the claimant informed the post office that she wished to return immediately. However, the post office did not have any light duty work, so she remained on an unpaid leave of absence until the end of August, at which time the post office arranged for her to perform light duty work. (The claimant performed that work for about two weeks and then went back to her regular employment with the post office. )

When no light duty work was immediately available in June, the claimant offered to return to her regular job, punching keys on a letter sorting machine. She felt she could perform this job since her fingers were free and not in a cast. However the post office, fearing that she might re-injure herself, refused to allow her to go back to that job at that time.

While the claimant was on leave she sought clerical and secretarial work, as well as cashier and sales work. She eventually was offered a job, but one week later the post office offered her work, so she returned to the post office.

## CONCLUSIONS OF LAW


The Board of Appeals concludes that the claimant was meeting the requirements of Section 4(c) of the law at the time she applied for benefits on June 19, 1988 and subsequently,

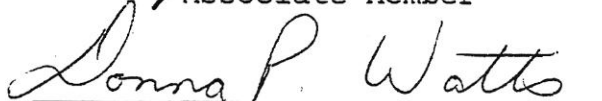
through the time that she returned to work for the employer in August . The credible and unrebutted testimony of the claimant is that she was able to do light duty work in June, and even offered to perform her regular job. It was the post office 'who refused to allow her to return while she had a cast on her arm, up until the middle or end of August. When the post office would not take her back at that time, the claimant sought other work for which she was qualified. Under all these circumstances, the Board is convinced that the claimant made reasonable efforts to return to work and to seek other work when that was not possible, and therefore she was meeting the requirements of Section 4(c) of the law.

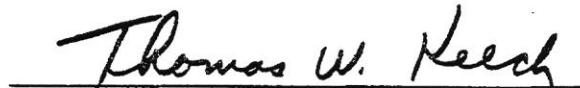
DECISION

The claimant was able to work, available for work and actively seeking work within the meaning of Section 4(c) of the Maryland Unemployment Insurance Law from June 19, 1988 and until such time as she returned to her full-time employment with the post office.

The decision of the Hearing Examiner is reversed.

  
Associate Member

  
Associate Member

  
Chairman

HW:W:K

kbm

Date of Hearing: November 22, 1988

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - BALTIMORE

STATE OF MARYLAND  
APPEALS DIVISION  
1100 NORTH EUTAW STREET  
BALTIMORE, MARYLAND 21201  
(301) 383-5040

STATE OF MARYLAND  
William Donald Scheefer  
Governor

— DECISION —

Date Mailed: August 23, 1988

Claimant: Angela B. Lewis

Appeal No: 88-UCF-169

S.S. No.:

Employer: Minneapolis Postal Data Center

L.O. No.: 1

Appellant: Claimant

Issue: Whether the claimant was able, available and actively seeking work, within the meaning of Section 4(c) of the Law.

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- 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 518, 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 September 7, 1988  
NOTICE: APPEALS FILED BY MAIL, INCLUDING SELF-METERED MAIL, ARE CONSIDERED FILED ON THE DATE OF THE U.S. POSTAL SERVICE POSTMARK.

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— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Angela B. Lewis - Present

Ms. King

FINDINGS OF FACT

The claimant has a benefit year effective June 19, 1988. She was employed with the U.S. Postal Service. When she began work on August 3, 1986, she was performing duties as a letter sorter operating a machine, at \$23,115.00 a year at the time of her separation on June 11, 1988.

The testimony reveals that the claimant went on a medical leave of absence without pay. She last worked on June 11, 1988. She was off from work on June 12, 1988 when she injured her arm which was not connected with her employment. On June 13, 1988, she went to the hospital and at the same time reported to the employer and

went on sick leave. Her paid sick leave ran out and she put in for advance sick leave but was denied this leave. The employer had no light duty available that they could offer the claimant. The claimant insisted that she was able, available for light work, but admits she was on unpaid leave with the United States Postal Service. The facts reveal that the claimant reported for postal duty, as some light work became available, on August 4, 1988, and is still employed at present.

CONCLUSIONS OF LAW

It is concluded from the testimony that the claimant was never actually separated from work, as she was on leave and her job remained open. The determination of the Claims Examiner under Section 4(c) of the Law is affirmed.

DECISION

The claimant was never actually unemployed, able, available and actively seeking work as required under Section 4(c) of the Maryland Unemployment Insurance Law. She is denied benefits from June 19, 1988 until such time that she meets the requirements of the Law.

The determination of the Claims Examiner under Section 4(c) of the Law is hereby affirmed.

James E. Rambo  
James E. Rambo  
Hearing Examiner *cc*

Date of hearing: 8/8/88  
kac/Specialist ID: 01036/5064A  
Copies mailed on August 23, 1988 to:

Claimant  
Employer  
Unemployment insurance - Baltimore (MABS)