

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
J. Randall Evans, Secretary

Board of Appeals
1100 North Eutaw Street
Baltimore, Maryland 21201
Telephone: (301) 333-5032

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

— DECISION —

	Decision No.:	1462-BR-91
	Date:	Nov. 19, 1991
Claimant:	Apelal No.:	9005673
	S. S. No.:	
Employer:	L. O. No.:	10
	Appellant:	REMAND FROM COURT
Issue:	Whether the claimant was able to work, available for work and actively seeking work within the meaning of Section 8-903 of the Labor and Employment Article.	

— 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 CIRCUIT COURT OF BALTIMORE CITY, IF YOU RESIDE IN BALTIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES

December 19, 1991

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

This case was remanded to the Board of Appeals by the Circuit Court for Dorchester County. Upon further review of the record in the case, the Board reverses its prior decision and

the decision of the Hearing Examiner and concludes that the claimant was meeting the requirements of Section 8-903 of the Labor and Employment Article (formerly Article 95A, Section 4(c) of the Maryland Unemployment Insurance Law).

The claimant's credible and un rebutted testimony is that she was actively seeking full-time work during the period in question. The reason for her disqualification was that she anticipated going into business with her husband sometime in the near future and that some of her perspective employers knew this when she applied for work with them.

The Board has previously held that no disqualification is appropriate under this section of the law where an otherwise able, available and actively seeking work claimant intends to return to a former job when permitted to do so. In Bentz v. Pleasant View Nursing Home, 411-BR-81, the Board held that it was inconsistent with the purpose of the unemployment insurance law to disqualify claimants on grounds of unavailability for work solely because they honestly indicate to perspective employers the realities of their employment situation. In that case, the claimant told prospective employers that she intended to return to her former occupation, nursing, after her baby was born.

Applying the reasoning of that case here, the Board concludes that the claimant was not unreasonably restricting her availability for work, and therefore the prior decision should be reversed.

DECISION

The claimant was able to work, available for work and actively seeking work within the meaning of Section 8-903 of the Labor and Employment Article. Benefits are allowed from the week beginning April 8, 1990.

The previous decision of the Board of Appeals is reversed.


Associate Member


Associate Member

HW:W
kbn

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - CAMBRIDGE

Maryland Department of Economic & Employment Development

The last sentence in the second paragraph has been deleted. It should not have been apart of the decision.

CORRECTED DECISION

William Donald Schaefer
Governor
J. Randall Evans
Secretary

Board of Appeals
1100 North Eulaw Street
Baltimore, Maryland 21201

Telephone: (301) 333-5033

DATE: July 13, 1990
DECISION NO.: 455-DR-90
CLAIMANT: Katherine O. Koski
APPEAL NO.: 9005672 & 9005673
EMPLOYER: Apex Associates, Inc.
S. S. NO.:
L.O. NO.: 10
APPELLANT: CLAIMANT

After receipt of your Petition for Review of the decision of the Hearing Examiner, the Board of Appeals has considered all of the facts and records in your case.

The Board of Appeals has concluded that the decision of the Hearing Examiner is in conformity with the Maryland Unemployment Insurance Law and, accordingly, your Petition for Review is denied.

YOU may file an appeal on or before the date below stated. The appeal may be taken, in person or through an attorney, to the Circuit Court of Baltimore City or the Circuit Court of the county in Maryland in which you reside.

The period for filing an appeal to court expires at midnight, August 12, 1990.

Hayel A. Warrick

Associate Member

Donna P. Watts

Associate Member

W:W

kk

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - CAMBRIDGE

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
J. Randall Evans, Secretary

William R. Merriman, Chief Hearing Examiner
Louis Wm. Steinwedel, Deputy Hearing Examiner

1100 North Eutaw Street
Baltimore, Maryland 21201

— D E C I S I O N —

Date: Mailed: May 24, 1990

Claimant: Katherine O. Koski Appeal No.: 9005673

S. S. No.:

Employer: Apex Associates, Inc. L. O. No.: 10

Appellant: Claimant

Issue: Whether the claimant was able, available and actively seeking work, within the meaning of Section 4(c) 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 OFFICE OF THE DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT, OR WITH THE APPEALS DIVISION, ROOM 515.1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL.

June 8, 1990

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON

— A P P E A R A N C E S —

FOR THE CLAIMANT:

FOR THE EMPLOYER

Katherine O. Koski - Claimant

Keith Mayo,
President/General
Manager
Frank Bradley,
Sales Manager

FINDINGS OF FACT

The Claims Examiner determined the claimant to be unavailable for full-time employment without restriction based upon a statement offered to the Claims Examiner at the time of the original interview.

The facts offered to the Claims Examiner are materially the same as presented at the appeals hearing which were "I would accept full-time employment at this time but only until the summer. My husband and I are planning to build chicken houses and we have gotten prices but nothing started as far as building. We do have building permits and have had the land tested but I am looking for work each week at this time. I am going to quit as soon as the chicken houses are ready. I will be the person responsible for caring for the chicken houses and I am only available for work until the chicken houses are ready."

CONCLUSIONS OF LAW

Article 95A, Section 4(c) provides that a claimant for unemployment insurance benefits must be (1) able and available for work and (2) actively seeking work without restrictions upon his/her availability for work. In Robinson v. Employment Security Board (202 Md. 515). The Court of Appeals upheld the principle that a claimant may not impose restrictions upon his/her willingness to work and still be "available" as the Statute requires.

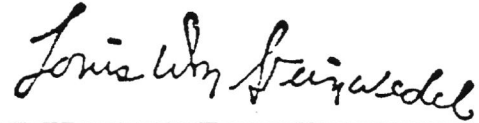
The evidence in this case demonstrates that the claimant is seeking merely a temporary employment until such time as she is established in a family business. Such a circumstance is not equivalent to being available with restriction as contemplated by the Statute of Section 4(c). In this case there is a restriction upon the claimant's availability for work and that restriction is that the availability is temporary and extends to a limited and definable time. Under these circumstances, the determination of the Claims Examiner is in accordance with the requirements of Section 4(c) and may not be disturbed.

DECISION

It is held that the claimant is not meeting the availability requirements of Section 4(c) of the Maryland Unemployment Insurance Law and is, therefore, ineligible for the receipt of unemployment insurance benefits for that reason.

The determination of the Claims Examiner is affirmed.

The claimant is held to be ineligible for benefits from the week beginning April 8, 1990 and until such time that she is in full compliance with the requirements of the Maryland Unemployment Insurance Law.



Louis Wm. Steinwedel
Deputy Hearing Examiner

Date of Hearing: May 11, 1990
bch/Specialist ID: 10167
Cassette No: 3977
Copies mailed on May 24, 1990 to:

Claimant
Employer
Unemployment Insurance - Cambridge (MABS)