

 **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 No.:	1519 1518-BR-93
	Date:	Sept. 15, 1993
Claimant: John Sansone	Appeal No.:	9306444
	S.S. No.:	
Employer:	L. O. No.:	8
	Appellant:	CLAIMANT

Issue: Whether the claimant was able, available and actively seeking work, within the meaning of §8-903 of the Labor and Employment Article.

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- 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                      October 15, 1993

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- APPEARANCES -

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

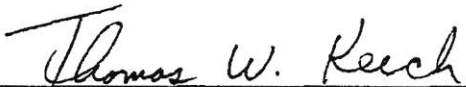
Upon review of the record in this case, the Board of Appeals reverses the decision of the Hearing Examiner.

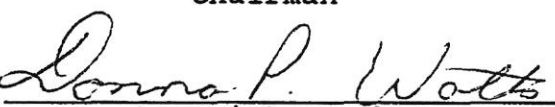
The claimant was disqualified because he often works for himself, as he testified. The claimant, however, also works for others, as an employee. In fact, he established his monetary eligibility by working for a temporary employment agency. He is looking for contracts, casual work and laboring work of any kind, both part-time and full-time, as both an employee and a contractor. Under these circumstances, the Board concludes that he is able to work and available for work. See, the Board decision in Butterfield (671-BR-91).

DECISION

The claimant was able to work, available for work and actively seeking work within the meaning of §8-903 of the Labor and Employment Article. No penalty is imposed based upon his method of searching for work.

The decision of the Hearing Examiner is reversed.

  
\_\_\_\_\_  
Chairman

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

K:DW  
kbm  
COPIES MAILED TO:

CLAIMANT

UNEMPLOYMENT INSURANCE - ANNAPOLIS

Buffy Sansone  
Cape St. Claire  
Annapolis, MD 21401

 **Maryland**  
Department of Economic &  
Employment Development

*William Donald Schaefer, Governor*  
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*Gary W. Wiedel, Administrator*  
*Louis Wm. Steinwedel, Chief Hearing Examiner*

*Room 511*  
*1100 North Eutaw Street*  
*Baltimore, Maryland 21201*

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**— D E C I S I O N —**

Claimant:	Date:	Mailed:
John H. Sansone	4/29/93	
	Appeal No.:	9306444
	S. No.:	
Employer:	LO. No.:	8
	Appellant:	Claimant

Issue: Whether the claimant was able. available and actively seeking work under the MD Code, Labor and Employment Article, Title 8, Section 903 and 806 untimely appeal.

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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 OFFICE OF THE DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT, OR WITH THE BOARD OF APPEALS, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL

May 14, 1993

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES ON

NOTE: 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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**— A P P E A R A N C E S —**

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Claimant - Present

Nikki Gladding, Unemployment Insurance Supervisor

**FINDINGS OF FACT**

The claimant applied for unemployment insurance benefits establishing non-monetary eligibility for the year beginning January 31, 1993 and qualifying for a weekly benefit amount

of \$49.00. The record shows that the claimant was denied benefits and was sent a determination advising him of the denial and that he could file an appeal no later than March 16, 1993. The claimant filed his request for an appeal hearing by mail and it was marked as received on March 17, 1993.

The local office did not retain a copy of the claimant's envelope, but it is logical to assume that in order for the letter to have been received by March 17, 1993, it had to have been mailed at least one or two days prior thereto. Therefore, the appeal will be considered timely filed.

The local office shows that the claimant reported for an Eligibility Review Interview on February 17, 1993. At that time, the claimant explained that he was a self-employed laborer doing yard work and other odd jobs. At the time of the interview and again at this hearing, the claimant explained that he looked for contracts by bidding on jobs with various companies. He has control over the hours he works and the claimant repeatedly stated that he works for himself.

The claimant is still unemployed and has tried to get food stamps, but was advised by Social Services that he had to file for unemployment first.

#### CONCLUSIONS OF LAW

The Code of Maryland, Labor and Employment Article, Title 8, Section 903 and 904 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 claimant was questioned extensively about his job contacts and the method used for searching for work. He maintained throughout the intense inquiry that he is self employed and bids on various jobs. He meets all criteria as a self employed person or a "jobber".

The determination of the Claims Examiner will be affirmed.

#### DECISION

It is held that the claimant filed a timely appeal as provided by Maryland Unemployment Insurance Law, Title 8, Section 806.

It is held that the claimant is not able, available and actively seeking work as required by Maryland Unemployment Insurance Law, Title 8, Section 903. Benefits are denied for the week beginning January 31, 1993 and until the claimant meets the requirements of the Law.

The determination of the Claims Examiner is affirmed.

*Mary Welcome/KPB*  
Mary Welcome  
HEARING EXAMINER

DATE OF HEARING: 4/13/93  
SPECIALIST' ID: 08005  
kb/CASSETTE IN FILE  
SEQ 01  
COPIES MAILED ON April 29, 1993 TO:

Claimant  
Unemployment Insurance - Annapolis (MABS)