

 **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.:	1552-BR-91
	Date:	December 11, 1991
Claimant: Robert Settle	Appeal No.:	9107647
	S S. No.:	
Employer: Bill Rohrbaughs Charter Serv. Corporation	L. O. No.:	15
	Appellant:	CLAIMANT
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.	

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— 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

January 10, 1992

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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 modifies the decision of the Hearing Examiner.

At the time that the claimant filed for benefits in January, 1991, he had just lost his full-time job with Monumental Life and was expecting to begin work with Carroll County on February 1, 1991. This expectation was reasonable, given the bona fide offer of employment from Carroll County. Therefore, his refusal of the offer to work full time as a bus driver for Rohrbaughs was not unreasonable at that time. See, Bentz v. Pleasant View Nursing Home, 411-BR-85.

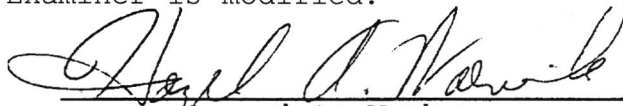
The starting date was delayed by Carroll County due to events unforeseen by the claimant. According to the letter submitted by the claimant from Carroll County Detention Center, the offer of work remained until approximately two months later when it was retracted. At that point, approximately April 1, 1991, the claimant knew he would not be working full time for Carroll County and should have been willing to work full time for Rohrbaughs.

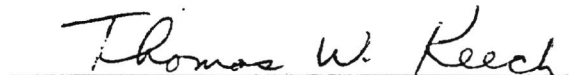
Therefore, the Board concludes that the claimant was not available for work, within the meaning of Section 8-903 of the Labor and Employment Article, but only beginning April 1, 1991 and until he started full-time work on May 13, 1991.

DECISION

The claimant was not able to work and available for work, within the meaning of Section 8-903 of the Labor and Employment Article. Benefits are denied from the week beginning March 31, 1991 until the week ending May 11, 1991.

The decision of the Hearing Examiner is modified.

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

  
\_\_\_\_\_  
Chairman

HW:K

kbm

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - WESTMINSTER

 **Maryland**  
Department of Economic &  
Employment Development

*William Donald Schaefer, Governor*  
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*1100 North Eutaw Street*  
*Baltimore, Maryland 21201*

*Telephone: 333-504*

**— DECISION —**

Date: Mailed: 06/5/91  
Appeal No.: 9107647  
S. S. No.:  
Claimant: Robert T. Settle  
Employer: Bill Rohrbaughs Charter Serv. Co. No.: 15  
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 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.

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON June 20, 1991

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**— APPEARANCES —**

FOR THE CLAIMANT:

Claimant - Present

FOR THE EMPLOYER:

Represented by:  
Judith L. Reed,  
General Manager

**FINDINGS OF FACT**

The claimant filed a claim for unemployment insurance benefits establishing a benefit year, effective January 20, 1991 and a weekly benefit amount of \$207.00. The Claims Examiner denied the

claimant benefits for the week beginning January 20, 1991 until meeting the requirements of the Law because of a determination that the claimant was not able and available and actively seeking work, within the meaning of Section 4(c) of the Law.

The credible indicated that the claimant left his previous employment on January 17, 1991. The claimant filed for unemployment in the State of Maryland the following week. Soon thereafter he was offered a position by the Carroll County Detention Center which was to start sometime in February, 1991. The claimant also work part-time for Bill Rhorbaughs charter Service, Inc. The claimant has worked for the Charter Service full-time in the past. The claimant wished to obtain a position with the Carroll County Detention Center since it paid a little more money and had better benefits than the Charter Company. The claimant was notified in late January and offered a full-time position as a correctional officer. The position was to become effective February, 1991.

Due to the County and State budgetary problems the claimant was never started his employment the County and the State had a hiring freeze on all positions. The offer was retracted by the warden approximately two months after the offer was extended. The claimant eventually did not get his job with the Carroll County Detention Center.

The claimant is also a part-time bus driver with Bill Rohrbaughs Charter Services, Inc. The claimant had worked full-time for them in the past and is presently working for them full-time as of May 13, 1991. As of the time sequence from January 20, 1991 onward, the claimant was offered a full-time position with the Charter Company. The Charter Company was willing to give him additional part-time hours if he wished. The claimant was hoping that the State job would come to fruition. The claimant was actively seeking other employment but did not work all the available hours offered by Bill Rohrbaughs Charter Services, Inc.

#### CONCLUSIONS OF LAW

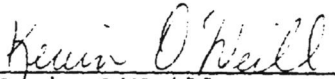
Article 95A, Section 4(c) provides that a claimant for unemployment insurance benefits must be (1) able and available for work and (2) actively seeking work without restrictions upon his/her availability for work. In Robinson v. Employment Security Board (202 Md. 515). The Court of Appeals upheld the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

In the instant case, the claimant should have worked all available hours with Bill Rohrbaughs Charter Services, Inc. The claimant was hoping for the State job which never came to fruition. The claimant waited on a reasonable amount of time for the State to work out its budgetary problems. The claimant was not able and available and actively seeking work, within the meaning of Section 4(c) of the Law since he did not work all the hours available at Bill Rohrbaughs Charter Services, Inc.

## DECISION

The claimant was not able and available for work and not actively seeking work, within the meaning of Section 4(c) of the Law. The claimant is disqualified from the weeks beginning January 20, 1991 until meeting the requirements of the Law.

The determination of the Claims Examiner is affirmed.

  
Kevin O'Neill  
Hearing Examiner

Date of Hearing: 5/29/91  
ec/Specialist ID: 15703  
Cassette No: 5296a  
Copies mailed on 06/5/91 to:

Claimant  
Employer  
Unemployment Insurance - Westminster (MABS)