



DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND  
1100 NORTH EUTAW STREET  
BALTIMORE, MARYLAND 21201

383-5032

—DECISION—

STATE OF MARYLAND  
HARRY HUGHES  
Governor

BOARD OF APPEALS  
THOMAS W. KEECH  
Chairman

HAZEL A. WARNICK  
MAURICE E. DILL  
Associate Members

SEVERN E. LANIER  
Appeals Counsel

DECISION NO.: 409-BR-84  
DATE: April 23, 1984

CLAIMANT: Francis P. Spaniard

APPEAL NO.: 00804

S.S.NO.:

EMPLOYER:

LO. NO.: 2

APPELLANT: AGENCY

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

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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, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT May 23, 1984

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— APPEARANCE —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

Upon a review of the record in this case, the Board of Appeals reverses the decision of the Appeals Referee .

The claimant in this case was exempted from producing evidence that he was actively seeking work. This was done under that provision on §4(c) of the law which allows the Secretary to do so where a claimant has been laid off for a certain period of less than ten weeks.

Under a former departmental policy, however, a claimant could be later retroactively disqualified under §4(c) if, when later audited, he was unable to produce evidence of his work search during the week in question. See, U.I. Division Instruction 17-83 (May 31, 1983).

This claimant was retroactively disqualified under the above policy. Since then, the agency has changed its policy and now interprets that section of §4(c) as exempting claimants from searching for work in these circumstances. See, U.I. Administration Instruction 4-84 (February 21, 1984).

Although the words of the statute exempt a claimant from "producing evidence required under [§4(c) ]," the Board concludes that the new interpretation is reasonable and correct. The statute goes on to state:

however, such employees must comply with the provisions of subsection (a) of this section and must be able to work and otherwise fully available to work.

This language indicates that the exemption from "producing evidence" does not exempt a claimant from the requirement that he be able to work and available for work. The unstated implication in the statute is that a claimant in these circumstances is exempt from actively seeking work. The agency's new interpretation correctly interprets this policy.

Applying this interpretation to this case, it is clear that the claimant should not be disqualified under §4(c) of the Law.

#### DECISION

The claimant met the requirements of §4(c) of the law for the week ending September 10, 1983.

The decision of the Appeals Referee is reversed.

  
Chairman

  
Associate Member

K:W

kbm

COPIES MAILED TO:

CLAIMANT

Robert W. Wills - Supervisor  
Random Audit Unit  
Room 300

UNEMPLOYMENT INSURANCE - GLEN BURNIE



STATE OF MARYLAND  
 HARRY HUGHES  
 Governor  
 KALMAN R. HETTLEMAN  
 Secretary

DEPARTMENT OF HUMAN RESOURCES  
 EMPLOYMENT SECURITY ADMINISTRATION  
 1100 NORTH EUTAW STREET  
 BALTIMORE, MARYLAND 21201  
 383 - 8040

BOARD OF APPEALS  
 THOMAS W. KEECH  
 Chairman  
 MAURICE E. DILL  
 HAZEL A. WARNICK  
 Associate Members  
 SEVERN E. LANIER  
 Appeals Counsel  
 MARK R. WOLF  
 Administrative  
 Hearings Examiner

- DECISION -

CLAIMANT: Francis P. Spaniard  
 EMPLOYER:  
 ISSUE: Whether the claimant was able, available and actively seeking work within the meaning of Section 4(c) of the Law.

DATE: March 15, 1984  
 APPEAL NO.: 00804  
 S.S NO.:  
 L. O. NO.: 2  
 APPELLANT: Claimant

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 March 30, 1984

- APPEARANCES -

FOR THE CLAIMANT:

Present

FOR THE EMPLOYER:

Other : Robert W. Wills,  
 Random Audit Unit  
 Dept. of Employment & Training

FINDINGS OF FACT

The claimant had been employed by Maryland Shipbuilding and Drydock for 28 years as a marine electrician. The claimant had been laid off two weeks and went back to work on August 13, 1983. The claimant was again laid off on September 3, 1983. The claimant, relied on a directive from the Unemployment Insurance Director which in essence says that if the layoff is for a certain and definable period not exceeding ten weeks, the

claimant does not have to produce evidence that he made an active search for work. However, this directive also-says that if later audited, the claimant must substantiate his active search for work. The claimant was audited and was unable to substantiate his active search for work.

The claimant expects to return to work one week after the hearing.

CONCLUSIONS OF LAW

Although the claimant does not have to produce evidence of his search for work, he has to substantiate it when audited at a later date. Therefore, the determination of the Claims Examiner that the claimant did not make an active search for work will be affirmed.

DECISION

The claimant did not actively seek work within the meaning of Section 4(c) of the Maryland Unemployment Insurance Law. He is disqualified for the week ending September 10, 1983. The determination of the Claims Examiner is affirmed.

  
John G. Hennegan  
Appeals Referee

Date of hearing: Feb. 10, 1984  
jlt  
(483-O'Neill)

Copies mailed to:  
Claimant  
Unemployment Insurance - Glen Burnie

Robert W. Wills  
Supervisor, Random Audit Unit  
Rm. 300