



STATE OF MARYLAND

DEPARTMENT OF EMPLOYMENT AND TRAINING

BOARD OF APPEALS
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

(301) 383-5032

BOARD OF APPEALS

THOMAS W. KEECH
Chairman

HAZEL A. WARNICK

Associate Member

SEVERN E. LANIER

Appeals Counsel

MARK R. WOLF

Chief Hearing Examiner

— DECISION —

Decision No.: 416-BR-87

Date: June 12, 1987

Appeal No.: 8702135

S. S. No.:

Claimant: Charles Connor

Employer: City of Baltimore

LO. No: 9

Appellant: EMPLOYER

Issue: Whether the claimant was able 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 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 ON

July 12, 1987

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

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

Although the employer's physician would not certify the claimant as able to do his job, because of the restriction against climbing ladders, there is evidence that the claimant was able to do other work and that he in fact did seek other work he was capable of doing during the time he had this restriction. Further, the claimant testified, and the Hearing Examiner found as a fact, that the claimant could have even performed his former job with the employer, although the employer's physician refused to so certify. Even assuming that the claimant was unable to perform his former job because of his inability to climb ladders, however, the claimant is clearly able to perform most other types of job.

DECISION

The claimant is able to work, available for work and actively seeking work within the meaning of Section 4(c) of the Maryland Unemployment Insurance Law. No disqualification is imposed under this section of the law.

The decision of the Hearing Examiner is affirmed.

W:K

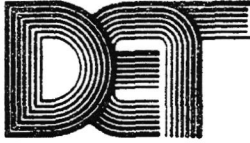
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CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - TOWSON



DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

(301) 383-5040

BOARD OF APPEALS

THOMAS W. KEECH
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Appeals Counsel

MARK R. WOLF
Chief Hearing Examiner

STATE OF MARYLAND
William Donald Schaefer
Governor

— DECISION —

Date: Mailed 4/23/87

Claimant: Charles Connor

Appeal No" 8702135

SS. NO.

Employer: Baltimore City Fire Department L.O. No.: 09

Appellant: Claimant

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

— NOTICE OF RIGHT OF FURTHER APPEAL —

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A FURTHER APPEAL AND SUCH APPEAL 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 May 8, 1987

—APPEARANCES —

FOR THE CLAIMANT

FOR THE EMPLOYER

Present

Represented by
Charles Spinner,
Personnel Technician
Supervisor

FINDINGS OF FACT

The claimant filed an original claim for unemployment insurance benefits, effective January 11, 1987.

The claimant was employed by the Fire Department of Baltimore City, for approximately six and one-half years, his last job classification as a radio maintenance technician at hi-weekly earnings of approximately \$975.00.

The claimant was involved in an automobile accident, fracturing his hip, on or about October 18, 1986. From October 18, 1986 to on or about January 9, 1987, he was treated by a orthopedic surgeon and doctor.

His treating physician certified him as able to return to his normal duties and job specifications. The only restriction placed on the claimant's ability to perform his job assignments was "not to be climbing ladders at the present." The claimant recalls the necessity of climbing ladders on approximately four to eight times during the entire time he has been working with the Fire Department. The claimant also works in a team concept, and if work had to be performed requiring climbing of ladders, a team member would substitute for him because of this restriction.

The claimant exhausted all fringe benefits that he was entitled to from the Baltimore City Fire Department as of January 9, 1987.

The doctor representing the Fire Department would not allow the claimant to return to work, based on the restriction of climbing a ladder.

CONCLUSIONS OF LAW

The claimant's treating physician certified that he was able to return to work and perform duties with the exception of climbing ladders. The Fire Department's doctors decision was arbitrating in not allowing the claimant to return to work especially in view of the fact that the claimant worked on a team and it required one of the persons to climb a ladder.

This is a classic case between doctors, one treating a patient and a doctor representing the Fire Department as to whether a claimant is able to return to work. The claimant's only restriction was climbing ladders and, therefore, the doctor's refusal to allow him to return to work placed no restriction on the claimant to meet the able, available and actively seeking provisions of the Maryland Unemployment Insurance Law. The determination of the Claims Examiner that the claimant was not meeting the able, available and actively seeking provisions of Section 4 (c) of the Law shall, therefore, be reversed.

DECISION

The claimant is considered as meeting the able, available and actively seeking provisions of Section 4 (c) of the Law. The

denial of benefits for the week beginning January 11, 1987 indefinitely until the claimant demonstrates that he is meeting the eligibility requirements of Section 4 (c) of the Maryland Unemployment Insurance Law is rescinded.

The determination of the Claims Examiner is reversed.

DATE OF HEARING - 4/6/87

cd
1971/Safford

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Claimant
Employer
Unemployment Insurance - Towson - (Pre-MABS)