

# Maryland

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

1100 North Eutaw Street  
Baltimore, Maryland 21201  
(301) 333-5033



William Donald Schaefer, Governor  
J. Randall Evans, Secretary

**BOARD OF APPEALS**

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

**— DECISION —**

	Decision No.:	453 -BR-89
	Date:	May 26, 1989
Claimant: Lola C. Wiley	Appeal No.:	8902825 & 8902826
	S. S. No.:	
Employer:	L. O. No.:	14
	Appellant:	CLAIMANT

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 and whether the claimant was unemployed within the meaning of Section 20(1) 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, 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 AT MIDNIGHT ON June 25, 1989

**— 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 and concludes

that the claimant has been meeting the requirements of Section 4(c) of the law since February 12, 1989.<sup>1</sup>

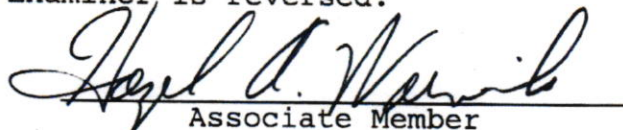
The claimant testified credibly that she has been seeking work continually and has worked full time, despite the fact that she has maintained a flower shop and bakery business in basement of her home, since April, 1986. When she is not employed, she increases the hours of her business but when she obtains full-time employment, she cuts back her business to accomodate her job. At the time of the hearing she was working at a factory from 7:00 a.m. to 3:30 p.m. She also testified that she was seeking work; she contacted at least four prospective employers each week.

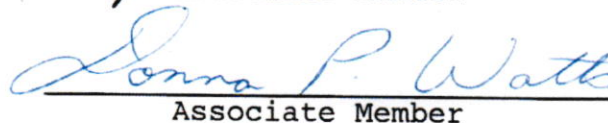
The claimant has continually been able, available and actively seeking work within the meaning of Section 4(c). The claimant is also not disqualified under Section 20(1) due to her "self-employment." Self-employment per se is not a disqualification under the unemployment insurance law. Veith, 34-BR-82.

#### DECISION

The claimant was meeting the eligibility requirements of Section 4(c) and Section 20(1) the Maryland Unemployment Insurance Law. No disqualification is imposed under this section of the law.

The decision of the Hearing Examiner is reversed.

  
Associate Member

  
Associate Member

H:D  
kmb

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<sup>1</sup> The Hearing Examiner erroneously listed this date as February 12, 1988. This was also incorrect because the determination at issue disqualified the claimant beginning February 12, 1989.

COPIES MAILED TO:

CLAIMANT

UNEMPLOYMENT INSURANCE - OAKLAND



# Maryland

## Department of Economic & Employment Development

William Donald Schaefer  
Governor  
J. Randall Evans  
Secretary

1100 North Eutaw Street  
Baltimore, Maryland  
21201

(301) 333-5040

— DECISION —

Claimant:	Lola C. Wiley	Date:	April 12, 1989
		Appeal No.:	8902825, 8902826
		S. S. No.:	
Employer:		L.O. No.:	014
		Appellant:	Claimant

Issue: Whether the claimant was unemployed within the meaning of Section 20(1) of the Law.  
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 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 4/27/89

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— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER

Lola C. Wiley - Present

OTHER: Hydie Kern, Claims Examiner

FINDINGS OF FACT

The claimant filed a claim for benefits effective April 3, 1988.

The claimant was employed by the Flushing Shirt Company until February 10, 1989.

The claimant established a flower shop and subsequently a bakery in her home, she started her personal enterprises on April 8, 1986.

Although the claimant advised the Claims Examiner that she was

not available for full-time work because she answered the question are you able, available and actively seeking full time work indicating no as I am self employed and wish to concentrate on my expanding business.

The claimant filed for claims and sought employment with at least two employers each week because her business was not financially profitable. The claimant, on March 30, 1989, went to work full-time for the Sportsware, Inc. selling swimuits as she works from 7 a.m. to 3:30 p.m. five days a week.

The claimant, although, she was seeking work, spent all of her time on her own business since she left Fushing Shirt Company until she found employment on March 30, 1989 full-time with a Sportsware, Inc. where she works forty hours a week.

#### CONCLUSIONS OF LAW

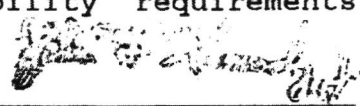
In the case of Veith 34-BR-82, the Board of Appeals held that the mere fact that a claimant is self-employed or attempting to start his own business, in the absence of any evidence that he is performing services for which wages are paid or payable, does not automatically disqualify the claimant within the meaning of Section 20(1) of the Law. However, Section 4(c) eligibility should be carefully examined.

In this case, the claimant certainly was engaged full-time in a business of which was not profitable as a result of this she obtained employment with another employer on March 30, 1989. Under such circumstances it must be concluded that she was self employed even though she was not making a profit.

In addition, it is concluded that while the claimant was working from 10 a.m. to 10 p.m. six days a week and from 1 p.m. to 5 p.m. on Sundays during her period claim status from April 3, 1988 until March 30, 1988 as she was not able, available for work.

#### DECISION

The determination of the Claims Examiner that the claimant was not eligible for benefits within the meaning of Section 4(c) and 20(1) of the Law are affirmed. Benefits are denied for the week beginning February 12, 1988 until all eligibility requirements are met.

  
John F. Kennedy, Jr.  
Hearing Examiner

Date of Hearing: April 6, 1989  
km/Specialist ID: 14580/2925  
Copies mailed on April 12, 1989 to:

Claimant  
Unemployment Insurance - Oakland - (MABS)