



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.:	509-BR-90
	Date:	May 31, 1990
Claimant: Susan E. Stalfort	Appeal No.:	9003036
	S. S. No.:	
Employer:	L. O. No.:	2
	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.	

—NOTICE OF RIGHT OF APPEAL TO COURT —

YOU MAY FILE AN APPEAL FROM THIS DECISION IN ACCORDANCE WITH THE LAWS OF MARYLAND. THE APPEAL MAYBE 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.

June 30, 1990

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

Upon review of the record in t-his 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 she applied for unemployment insurance benefits.

The Robinson case, cited in the decision, does deal with the principle that a claimant may not impose restrictions upon his or her willingness to work. However, the case does not rule out any and all restrictions, just unreasonable restrictions.


In this case, the claimant has applied for several appropriate jobs in the area each week. The type of job which she is seeking is plentiful in the area in which she is searching, due to the industrial development there. The claimant has worked all her life in that area, and has always found jobs in that area. No evidence was presented by the agency to show that the claimant either refused a job offered in an area outside of her "home" area or that the claimant's restriction was in any way detrimental to her job search. In fact, the claimant has had three different jobs in the area over the past years, and presently has several job possibilities.

This is not to say, however, that this restriction could not become an unreasonable restriction in the future. If, at some point in time, the claimant runs out of employers in her area to which she can apply for a job in her classification, the restriction may become unreasonable. That determination will depend upon the facts, at that time. Job restrictions must be looked at on a case-by-case basis to determine if they are unreasonable.

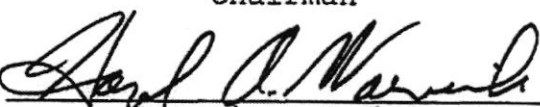
DECISION

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 from the week beginning February 4, 1990, based upon her geographical work search restrictions.

The decision of the Hearing Examiner is reversed.



Chairman



Associate Member

K:W
kbm
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CLAIMANT
UNEMPLOYMENT INSURANCE - GLEN BURNIE

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
J. Randall Evans, Secretary

William R. Merriman, Chief Hearing Examiner
Louis Wm. Steinwedel, Deputy Hearing Examiner

1100 North Eutaw Street
Baltimore, Maryland 21201

Telephone: 333-5040

— DECISION —

Claimant:	Susan E. Stalfort	Date:	Mailed: 4/2/90
		Appeal No.:	9003036
		S. S. No.:	
Employer:		L.O. No.:	02
		Appellant:	Claimant

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

— 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

April 17, 1990

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON

— APPEARANCES —

FOR THE CLAIMANT:

Claimant -Present

FOR THE EMPLOYER:

Local Office:
Represented by Vickie Graves

FINDINGS OF FACT

The claimant applied for benefits and established eligibility for the year beginning February 4, 1990 and a weekly benefit amount \$86. The claimant at time of her initial application advised the Claims Examiner that she suffers from a illness called agoraphobia and that she is unable to travel more than a four or five miles from her home. Her Psychiatrist confirmed

the disability and the restrictions. Based upon this information, the Claims Examiner denied benefits to this claimant.

The claimant has suffered from agoraphobia for approximately thirteen years and is classified by Job Search as an administrative assistant. She lives in the Regis Court area near Collins Breuery and has been able to find suitable employment in the past.

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.

The term "able to work" means that a claimant must be physically and mentally capable of working. The Board of Appeals has held whether an individual's medical problems render him unable to work depends upon the type of work formerly done by the claimant the type of work he is now capable of performing, the type of work sought in light of medical restrictions, and the existence of a market for the kind of work sought by the claimant. The claimant is seeking work as an administrative assistant and her disability/illness is not a restriction upon the kind of work that she is able to perform. In addition there is no question of the claimant willingness to work. However, the disability/illness does place restrictions on the claimant's ability to maximize her employment potential.

In search of a resolution to this unique issue, assistance can be found in the Board of Appeals decisions as they pertain to claimants who limit their geographical areas for reasons of lack of transportation, or lack of child care. What is consistent throughout all of the Board decisions regarding restriction is that the claimant must be able, available and actively work without restriction. We cannot get around the fact that a search for employment within a five mile radius is a substantial restriction upon the claimant's availability for work. Therefore, we have no alternative but to affirm the determination by the Claims Examiner.

DECISION

The claimant has restricted her search for work to a five mile radius from her home because of a medical disability. Because this is a substantial restriction on her availability, she is not able and available for work within the meaning of Section 4(c) of the Law. Benefits are denied for the week beginning February 4, 1990 until a meeting requirements of the Law.

The determination of the Claims Examiner is affirmed.

Handwritten signature of Mary Welcome in cursive script.

Mary Welcome
Hearing Examiner

Date of Hearing: 3/22/90
cc/Specialist ID:02424
Cassette: 2426
Copies Mailed on: 4/2/90

Claimant
Unemployment Insurance - Glen Burnie - (MABS)