



DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

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

BOARD OF APPEALS

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

William Donald Schaeter, Governor
J. Randall Evans, Secretary

— DECISION —

	Decision No.:	554-BR-88
	Date:	June 27, 1988
Claimant: Sharon A. Marsch	Appeal No.:	8803083
	S.S. No.:	
	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 MAY BE 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 27, 1988

— 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.

This case arises under Section 4(c) of the law, which requires a claimant to be able to work, available for work and actively seeking full time work in order to remain eligible for benefits. The claimant was available for work and was actively seeking full time work, submitting four to five applications per week, during the period in question. The only restraint on her availability was the requirement that she spend three days over that period of time transporting her son to the hospital and then to doctors for treatment of his broken toe. Those three days were February 25, March 10 and March 31, 1988. With the exception of these three days, the claimant was actively seeking full time work during these periods. There is some indication that the claimant may have refused a temporary job assignment with a temporary agency during this period. At the Claims Examiner level, however, a decision was apparently not to disqualify the claimant under Section 6(d) of the law. Thus, the only issue is whether the claimant was sufficiently available for work under Section 4(c) of the law.

In the case of Cuff v. Chesapeake Plywood (1356-BR-82), the Board ruled that a claimant's illness for the better part of one day would not support a disqualification of benefits under Section 4(c) for the entire week. As the Board stated in that case, isolated, fortuitous incidents do not establish in and of themselves, unavailability for work for the entire week. See also, Law-v. Holy Cross-Hospital (433-BR-83) and Paul v. Maryland Shipbuilding and Drydock (915-BR-84). A claimant's inability to work on a single day does not in and of itself support a finding that the claimant was unable to work for the rest of the week. Franko v. Fairchild, Inc. (673-BR-83). Within the meaning of the precedent cases cited above, the claimant's three days of unavailability for work over a four week period do not establish that she did not meet the requirements of Section 4(c) of the law, especially in the light of the fact that she was contacting four to five job prospects for full time work during this period and that she, in fact, obtained work shortly thereafter. For these reasons, the decision of the Hearing Examiner is reversed.

DECISION

The claimant was available for work within the meaning of Section 4(c) of the Maryland Unemployment Insurance Law for the weeks ending February 27, 1988, March 12, 1988 and April 2, 1988. No disqualification is imposed under Section 4(c) of the law for these three weeks. (The Hearing Examiner already lifted this penalty with respect to the other weeks in question.)

The claimant may contact the local office concerning the other eligibility requirements of the law.

The decision of the Hearing Examiner is reversed.


Chairman


Associate Member

K:D

kmb

COPIES MAILED TO:

CLAIMANT

UNEMPLOYMENT INSURANCE - GLEN BURNIE

STATE OF MARYLAND
APPEALS DIVISION
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201
(301) 383-5048

STATE OF MARYLAND
William Donald Schafer
Governor

- DECISION -

Claimant:	Sharon A. Marsch	Mailed: 5/4/88
		Date:
		8803083
		Appeal No.:
		S.S. No.:
Employer:		L.O. No.: 2
		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 OF FURTHER APPEAL -

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A FURTHER APPEALS 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 FURTHER APPEAL EXPIRES AT MIDNIGHT ON

5/19/87

NOTICE: APPEALS FILED BY MAIL INCLUDING SELF-METERED MAIL ARE CONSIDERED FILED ON THE DATE OF THE U.S. POSTAL SERVICE POSTMARK.

- APPEARANCES -

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Claimant-Present

FINDINGS OF FACT

The claimant declined offers of temporary employment at the end of February 1988 and early March 1988 for the reason that her son had fractured a toe and was dependent upon the claimant to transport him to and from the doctor on several occasions. For this reason, the claimant declined otherwise gainful, temporary employment. The claimant is presently employed having secured gainful employment on a full-time basis effective April 6, 1988.

The claimant's son required her for care and services on February 25, March 10 and 31, 1988 on which days the claimant visited an orthopedic surgeon for treatment. Except for these days, the claimant was otherwise available for work and looking for work.

CONCLUSIONS OF LAW

Section 4(c) of the Maryland Unemployment Insurance Law provides that an otherwise eligible individual must be able, available and actively seeking work, without restrictions in order to qualify for benefits for any given calendar week. If an individual is not available for work on any day of the calendar week, benefits must be denied for the entire period. Accordingly, the claimant must be disqualified from receipt of benefits for the weeks ending February 27, 1988, March 12, 1988, and April 2, 1988. The claimant may be eligible for partial benefits for the week ending April 9, 1988.

DECISION

It is held that the claimant was not available for work, within the meaning of Section 4(c) of the Maryland Unemployment Insurance Law during the weeks ending February 27, 1988, March 12, 1988 and April 2, 1988. Benefits are allowed for other weeks for which proper claims have been filed, subject to meeting the other eligibility requirements of the Statute.

Robin L. Brodinsky
Hearing Examiner

Date of hearing: 4/25/88

rc

(2001)-Graves

Copies mailed on 5/4/88 to:

Claimant

Unemployment Insurance - Glen Burnie - MABS