

 **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.:	602-BR-92
	Date:	March 30, 1992
Claimant: Stephanie Fleishman	Appeal No.:	9119329
	S. S. No.:	
Employer: Temps & Co. Inc.	L O. No.:	40
	Appellant	AGENCY
Issue	Whether the claimant was able to work, available for work, and actively seeking work within the meaning of Section 8-903 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

April 29, 1992

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

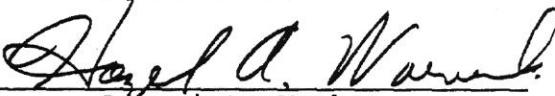
Upon review of the record in this case, the Board of Appeals modifies the decision of the Hearing Examiner. The Board agrees with the decision except for the disqualification for the week beginning September 29, 1991.

The fact that the claimant was unable to take a temporary assignment because she had an interview for a full-time job is not disqualifying under the unemployment insurance law. The law should not be interpreted in such a way that claimants are discouraged from or penalized for seeking full-time, permanent employment. Clearly, the claimant was able and available and actively seeking full-time work and thus meets the requirements of Section 8-903 of the Labor and Employment Article.

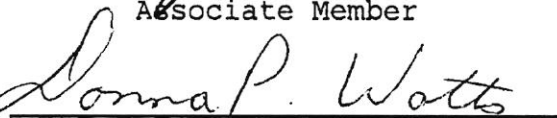
DECISION

The claimant is able to work and available for work within the meaning of Section 8-903 of the Labor and Employment Article. Benefits are allowed from the week beginning September 29, 1991 and thereafter, if she is meeting the eligibility requirements of the law.

The decision of the Hearing Examiner is modified.



Associate Member



Associate Member

HW:W

kbm

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - EASTPOINT

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
Mark L. Wasserman, Secretary

Gary W. Wiedel, Administrator
Louis Wm. Steinwedel, Chief Hearing Examiner

Room 501
1100 North Eutaw Street
Baltimore, Maryland 21201

Telephone: (410) 333-5040

— DECISION —

	Date:	Mailed: 2/12/92
Claimant:	Stephanie A. Fleishman	Appeal No. 9119329
	S. S. No.	
Employer:	Temps & Co., Inc.	LO. No.: 40
	Appellant:	Claimant
Issue:	Whether the claimant was able, available and actively seeking work, within the meaning of MD Code, Labor and Employment Article, Title 8, Section 903.	

— NOTICE OF RIGHT OF FURTHER APPEAL —

ANY interested PARTY TO THIS DECISION MAY REQUEST A FURTHER APPEAL AND SUCH APPEAL MAYBE FILED IN ANY OFFICE OF THE DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT, OR WITH THE BOARD OF APPEALS, ROOM 515,1100 NORTH EUTAW STREET, BALTIMORE MARYLAND 21201, EITHER IN PERSON OR BY MAIL.

THE PERIOD FOR FILING A FURTHER APPEAL EXPIRES ON February 27, 1992
NOTICE APPEALS FILED BY MAILING INCLUDING SELF-METERED MAIL ARE CONSIDERED FILED ON THE DATE OF THE US POSTAL SERVICE POSTMARK

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Claimant - Present

Not Represented

FINDINGS OF FACT

The claimant worked for the Temps and Company, Inc. , as a secretary/word processor. The claimant was employed from August 1991 until her last until her last assignment on September 27, 1991.

The evidence presented at the hearing established that the claimant refused to take assignment on September 9, 10, 17, 18, 19, 1991 due to the Jewish Holidays. The claimant had notified the employer that she would not be working during the holidays.

The evidence further established that the claimant refused an assignment on October 3, 1991, because she already had an interview scheduled for full-time employment.

On November 3, 1991, the claimant was assaulted and required hospitalization. The claimant was released by her doctor on December 9, 1991. During that period, the claimant was filing sick claims.

CONCLUSIONS OF LAW

The Code of Maryland, Labor and Employment Article, Title 8, Section 903 and 904 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 evidence presented established that the claimant notified the employer that she would not be working for approximately five days because of the Jewish Holidays. The claimant's refusal to work for religious reasons, does not constitute a restriction on her availability within the meaning of the Law. However, the claimant's refusal to work on October 3, 1991, due to a scheduled job interview, does constitute a restriction on her availability for the week.

For the period from November 3, 1991 to December 9, 1991, the claimant was meeting the requirements of the Law by filing sick claims due to her disability.

DECISION

The claimant was able and available for work, within the meaning of the Maryland Code, Labor and Employment Article, Title 8, Section 903, except for the week beginning September 29, 1991 through October 5, 1991. Thereafter, the claimant is able and available for work, within the meaning of the Maryland Code, Labor and Employment Article, Title 8, Section 903, without restriction.

The determination of the Claims Examiner is modified.


Geraldine Klauber
Hearing Examiner *JK*

Date of Hearing: February 3, 1992
lr/Specialist ID: 40311
Cassette No: Hearing Cassette in File
Copies mailed on February 12, 1992 to:

Claimant
Employer
Unemployment Insurance - Eastpoint (MABS)