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STATE OF MARYLAND  
DEPARTMENT OF LABOR, LICENSING AND REGULATION

PARRIS N. GLENDENING, Governor  
JOHN P. O'CONNOR, Acting Secretary

Board of Appeals  
Hazel A. Warnick, Chairperson

## - DECISION -

Claimant:

VLADIMIR A. KUZMAN

Decision No.: 00616-BR-99

Date: March 2, 1999

Appeal No.: 9821173

Employer:

S.S. No.:

L.O. No.: 43

Appellant: Claimant

Issue: Whether the claimant was able, available and actively seeking work within the meaning of the Maryland Code, Labor and Employment Article, Title 8 Section 903.

## - NOTICE OF RIGHT OF APPEAL TO COURT -

You may file an appeal from this decision in the Circuit Court for Baltimore City or one of the Circuit Courts in a county in Maryland. The court rules about how to file the appeal can be found in many public libraries, in the Maryland Rules of Procedure, Title 7, Chapter 200.

The period for filing an appeal expires: April 1, 1999

## REVIEW ON THE RECORD

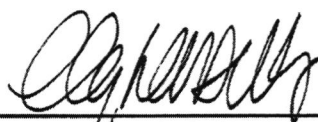
The claimant opened a benefit year beginning July 5, 1998. Although the claimant later attended school 3 days per week to learn English, there is insufficient evidence in the record to restriction upon his ability to actively seek and accept full-time employment. As long as the claimant did not make his schooling a restriction upon his ability and availability and in making a active work search, the Agency should not punish the claimant for seeking such education or training. The claimant made an active work search and eventually found full time employment.



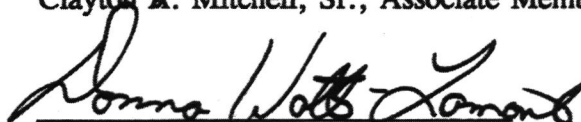
## DECISION

The claimant is able to work, available for work and actively seeking work within the meaning of §8-903 of the Labor and Employment Article. Benefits are allowed from the week beginning October 25, 1998.

The decision of the Hearing Examiner is reversed.



Clayton A. Mitchell, Sr., Associate Member



Donna Watts-Lamont, Associate Member

### Notice of Right to Request Waiver of Overpayment

The Department of Labor, Licensing and Regulation may seek recovery of any overpayment received by the Claimant. Pursuant to Section 8-809 of the Labor and Employment Article of the Annotated Code of Maryland, and Code of Maryland Regulations 09.32.07.01 through 09.32.07.09, the Claimant has a right to request a waiver of recovery of this overpayment. This request may be made by contacting Overpayment Recoveries Unit at 410-767-2424 or 1-800-827-4839. If this request is made, the Claimant is entitled to a hearing on this issue.

**A request for waiver of recovery of overpayment does not act as an appeal of this decision.** If any party wishes to appeal this decision, that party must follow the procedures outlined in the Notice of Right of Appeal to Court.

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Copies mailed to:

VLADIMIR A. KUZMAN

Local Office - #43

## **UNEMPLOYMENT INSURANCE APPEALS DECISION**

VLADIMIR A. KUZMAN

Before the:

SSN

**Claimant**

vs.

**Maryland Department of Labor,  
Licensing and Regulation  
Appeals Division  
1100 North Eutaw Street  
Room 511  
Baltimore, MD 21201  
(410) 767-2421**

Appeal Number:  
Appellant: Claimant  
Local Office: 43 / Wheaton

December 31, 1998

**Employer/Agency**

**For the Claimant: PRESENT**

**For the Employer:**

**For the Agency:**

### **ISSUE(S)**

Whether the claimant is able, available for work and actively seeking work within the meaning of the MD Code Annotated, Labor and Employment Article, Title 8 Sections 903 and 904; and/or whether the claimant is entitled to sick claim benefits within the meaning of Section 8-907.

### **FINDINGS OF FACT**

The claimant was scheduled for a Telephone Fact Finding Interview on November 18, 1998 and was not available for that interview as he had found employment and was working on that day. The claimant had enrolled in the Montgomery College Continuing Education Program studying English from November 2, 1998 through November 16, 1998 when he found employment. The claimant's schooling met three days per week. The claim examiner determined that the claimant during the week ending October 31, 1998 was not able and available for work and actively seeking work without restriction upon his availability for work within the meaning of Maryland Code, Labor and Employment Article, Title 8, Section 903 and denied claimant benefits from the week beginning October 25, 1998 and until he further meets the requirements of the Law.

### CONCLUSIONS OF LAW

Md. Code Ann., Labor & Emp. Article, Section 8-903 (Supp. 1996) provides that a claimant for unemployment insurance benefits shall be (1) able to work; (2) available for work; and (3) actively seeking work. In Robinson v. Maryland Employment Sec. Bd., 202 Md. 515, 97 A.2d 300 (1953), the Court of Appeals held that a claimant may not impose restrictions upon his or her willingness to work and still be available as the statute requires.

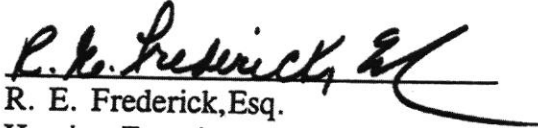
### EVALUATION OF EVIDENCE

In the instant case, attending school three days per week establishes a restriction upon the claimant's availability for work as provided for under Maryland Code, Labor and Employment Article, Title 8, Section 903 and accordingly the benefit determination of the claim examiner will be affirmed.

### DECISION

IT IS HELD THAT the claimant is not fully able, available, and actively seeking work within the meaning of Md. Code Ann., Labor & Emp. Article, Section 8-903 (Supp. 1996). Benefits are denied for the week beginning October 25, 1998 and until the claimant is fully able, available and actively seeking work without material restriction.

The determination of the Claim Specialist is affirmed.

  
R. E. Frederick, Esq.  
Hearing Examiner

### Notice of Right to Petition for Review

Any party may request a review either in person or by mail which may be filed in any local office of the Department of Labor, Licensing and Regulation, or with the Board of Appeals, Room 515, 1100 North Eutaw Street, Baltimore, MD 21201. Your appeal must be filed by January 15, 1999.

Note: Appeals filed by mail are considered timely on the date of the U.S. Postal Service postmark.

Date of hearing: December 23, 1998

CH/Specialist ID: EWWH3

Seq. No.: 004

Copies mailed on December 31, 1998 to:

VLADIMIR A. KUZMAN  
LOCAL OFFICE #43