

 **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.:	1462-BR-91
	Date:	Nov. 19, 1991
Claimant:	Apelal No.:	9005673
	S. S. No.:	
Employer:	L. O. No.:	10
	Appellant:	REMAND FROM COURT

Issue: Whether the claimant was able to work, available for work and actively seeking work within the meaning of Section 8-903 of the Labor and Employment Article.

— 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

December 19, 1991

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

This case was remanded to the Board of Appeals by the Circuit Court for Dorchester County. Upon further review of the record in the case, the Board reverses its prior decision and

the decision of the Hearing Examiner and concludes that the claimant was meeting the requirements of Section 8-903 of the Labor and Employment Article (formerly Article 95A, Section 4(c) of the Maryland Unemployment Insurance Law).

The claimant's credible and un rebutted testimony is that she was actively seeking full-time work during the period in question. The reason for her disqualification was that she anticipated going into business with her husband sometime in the near future and that some of her perspective employers knew this when she applied for work with them.

The Board has previously held that no disqualification is appropriate under this section of the law where an otherwise able, available and actively seeking work claimant intends to return to a former job when permitted to do so. In Bentz v. Pleasant View Nursing Home, 411-BR-81, the Board held that it was inconsistent with the purpose of the unemployment insurance law to disqualify claimants on grounds of unavailability for work solely because they honestly indicate to perspective employers the realities of their employment situation. In that case, the claimant told prospective employers that she intended to return to her former occupation, nursing, after her baby was born.

Applying the reasoning of that case here, the Board concludes that the claimant was not unreasonably restricting her availability for work, and therefore the prior decision should be reversed.

DECISION

The claimant was able to work, available for work and actively seeking work within the meaning of Section 8-903 of the Labor and Employment Article. Benefits are allowed from the week beginning April 8, 1990.

The previous decision of the Board of Appeals is reversed.


Associate Member


Associate Member

HW:W
kbn