



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.:	232-BR-93	
	Date:	February 9, 1993	
Claimant:	Carole N. Mathes	Appeal No.:	9221738
		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 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

March 11, 1993

— 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.

The claimant was mailed a notice calling her in for an Eligibility Review Interview on September 23, 1992, but she failed to appear. The claimant had put the notice aside and neglected to pay any attention to it until two days prior. At that point, she could get no one to pick up her daughter at school at 2:30 p.m. that day, so she did not attend that interview. She attended a rescheduled interview on October 6, 1992, while a babysitter watched her children.

The claimant had two babysitters available to watch both her daughter and her newborn baby, and to pick up her daughter from school at 2:30 p.m. on three days of the week. The claimant had not actually hired either of them, however, since she could not afford to pay babysitting fees until she actually became employed.

The claimant was available for work within the meaning of §8-903 of the law. There is no requirement that a permanent babysitter be engaged while a claimant looks for work, as long as permanent babysitting is available once the claimant finds a job. The claimant's testimony that she was actively seeking work was unrefuted, and she obtained a babysitter to attend the October 6th interview, as well as the hearing on November 13, 1992. Her testimony and evidence concerning the availability of permanent babysitters was unrefuted.

The claimant should be disqualified, however, under §8-902 of the law, for failing to report to the employment office on September 23, 1992. Due to her own neglect of these affairs, the claimant was unable to attend this appointment, and she should be disqualified for this one week.

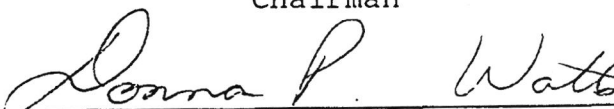
DECISION

The claimant failed to report to the employment office as directed on September 23, 1992, within the meaning of §8-902 of the Labor and Employment Article. She is disqualified from the receipt of benefits for the week beginning September 20, 1992 only.

The claimant was available for work within the meaning of Section 8-903 of the Labor and Employment Article. No penalty is imposed based upon the claimant's child care arrangements from September 20, 1992 on.

The decision of the Hearing Examiner is reversed.


Chairman


Associate Member

K:D

kmb

COPIES MAILED TO:

CLAIMANT

UNEMPLOYMENT INSURANCE - GLEN BURNIE

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
Mark W. Wasserman, Secretary

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

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Baltimore, Maryland 21201

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— D E C I S I O N —

	Date Mailed:	12/10/92
Claimant:	Appeal No.:	9221738
	S. S. No.:	
Employer:	LO. No.:	002
	Appellant:	CLAIMANT

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

— 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 BOARD OF APPEALS, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL

December 28, 1992

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES ON

NOTE: APPEALS FILED BY MAIL, INCLUDING SELF-METERED MAIL ARE CONSIDERED FILED ON THE U.S. POSTAL SERVICE POSTMARK

— A P P E A R A N C E S —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Claimant/Present

Local Office Representative: Joyce Lott, Claims Specialist

FINDINGS OF FACT

The claimant applied for unemployment insurance benefits and established non-monetary eligibility for the year beginning

January 13, 1992 and qualified for a weekly benefit amount of \$116.00.

The record shows that the claimant was scheduled to report to the local office for an Eligibility Review Interview on September 23, 1992. The claimant was- unable to attend that hearing-and it was rescheduled for October 6, 1992. On that date, the claimant explained that she was unable to report on September 23, 1992 because it was on a Wednesday and she had to pick up her daughter from school at 2:30 on Monday, Wednesday and Fridays. She further explained that she was the only one who had a car, and therefore, the burden was on her to provide transportation to her child.

The claimant claimed that she had baby-sitters available to provide child care, however, the evidence was insufficient and the Claims Examiner denied the claimant benefits because it was determined she was restricting her availability because of lack of child care. At this hearing, the claimant maintained that she had at least two baby-sitters but the evidence showed that they were not always reliable and available to the claimant. One baby-sitter was working on September 23 and could not provide child care and the other needed advance notice, which the claimant was unable to provide.

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 burden is on the claimant to show that she has sufficient child care which would allow her to search for work and be available for work without undue restrictions. The claimant's testimony was conflicting and the testimony supporting adequate child care was unconvincing.


The determination of the Claims Examiner will be affirmed.

DECISION

It is determined that the claimant is not able and available for work as provided by the Code of Maryland, Labor and Employment Article, Title 8, Section 903. Benefits are denied for the week

beginning September 20, 1992 until the claimant is able to provide sufficient documentation that she has reliable and adequate child care and thereby meets the requirements of the Law.

The determination of the Claims Examiner is affirmed.



Mary Welcome
Hearing Examiner

Date of Hearing: 11/13/92
kc/Specialist ID: 02422
(Cassette Attached to File)

Copies mailed on 12/10/92 to:

Claimant
Unemployment Insurance - Glen Burnie (MAWS)