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STATE OF MARYLAND
DEPARTMENT OF LABOR, LICENSING AND REGULATION

PARRIS N. GLENDENING, Governor
EUGENE A. CONTI, JR., Secretary

Board of Appeals
Hazel A. Warnick, Chairperson

- DECISION -

Claimant:
MARIA F. DISALVO

Decision No.: 02423-BR-96

Date: July 25, 1996

Appeal No.: 9609319

Employer:
HAIRSTYLISTS MGMT SYSTEMS INC

S.S. No.:

L.O. No.: 08

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: August 24, 1996

REVIEW ON THE RECORD

The Board adopts the following findings of fact and reverses the decision of the hearing examiner.



The Board is in receipt of agency form DEED/OUI 315, a physician's statement dated May 16, 1996, submitted by the claimant and completed by the her doctor. The Board admits this agency document into the record as Claimant's exhibit B-1.

Maryland Labor and Employment Article Section 8-903(b) states, in pertinent part that "the Secretary may not use the disability of a qualified individual with a disability as a factor in finding that an individual is not able to work under subsection (a)(1)(i) of [the unemployment insurance law]".

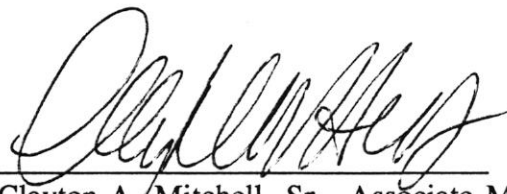
The claimant suffered an injury during an accident in 1995 which resulted in surgery and the need to use a cane. The claimant is unable to stand for more than ten minutes at a time.

The Board finds that the claimant has been released for full-time work by her physician, but because of her disability and because the claimant must now use a cane, the claimant may only accept a full time job which does not require standing, such as the position of a receptionist. The Board finds that other than the restrictions placed upon her by her physician due to her disability, the claimant has shown that she is able and available for full time employment as of March 11, 1996. Clearly, the claimant cannot be disqualified solely because she suffers from a disability, provided she is otherwise qualified for benefits.

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.

The decision of the Hearing Examiner is reversed.



Clayton A. Mitchell, Sr., Associate Member



Hazel A. Warnick, Chairperson

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Copies mailed to:

MARIA F. DISALVO

HAIRSTYLISTS MGMT SYSTEMS INC

HAIRSTYLISTS MGMT SYSTEMS INC

Local Office - #08

UNEMPLOYMENT INSURANCE APPEALS DECISION

MARIA F. DISALVO

Before the:

SSN

Claimant

vs.

HAIRSTYLISTS MGMT SYSTEMS INC

Employer/Agency

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

Appeal Number: 9609319
Appellant: Claimant
Local Office: 08 / Annapolis

May 24, 1996

For the Claimant: PRESENT

For the Employer:

For the Agency:

ISSUE(S)

Whether the claimant is able to work, 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.

FINDINGS OF FACT

The claimant filed a claim for benefits with a benefit year beginning on April 7, 1996 and a weekly benefit amount of \$89.00. The claimant left her last employment as a hair stylist because she had had an accident involving her right foot in November which ultimately resulted in her having surgery on that foot in December, 1995. As a hair stylist, the claimant had to stand while working. She was unable to spend more than ten minutes at a time on her feet and therefore had to take a leave from this position. The claimant's last employer indicated that it would take the claimant back when she is released by her physician and the claimant intends to return to her former employment as soon as she is released by her physician.

The claimant has been a hair stylist since 1985 and has not had any other employment since then. Many years ago, the claimant was in the restaurant business with her husband, which business requires a lot of standing. The claimant has not been reclassified for any other job by the Job Service.