



**DEPARTMENT OF EMPLOYMENT AND TRAINING**

**BOARD OF APPEALS  
1100 NORTH EUTAW STREET  
BALTIMORE, MARYLAND 21201**

**(301) 383-5032**

**BOARD OF APPEALS**

**THOMAS W. KEECH  
Chairman**

**HAZEL A. WARNICK  
MAURICE E. DILL  
Associate Members**

**SEVERN E. LANIER  
Appeals Counsel**

**MARK R. WOLF  
Chief Hearing Examiner**

**STATE OF MARYLAND**

**HARRY HUGHES  
Governor**

**— DECISION —**

Decision No.: 2 97-BR-85

Date: May 17, 1985

Claimant: Claudette O. Ervin

Appeal No.: 08241 & 08242

S. S. No.:

Employer: Government Service Saving  
& Loan

LO. No.: 43

Appellant: CLAIMANT

Issue Whether the claimant failed, without good cause, to accept suitable work when offered within the meaning of §6(d) of the law, and whether the claimant was able, available and actively seeking work within the meaning of §4(c) of 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, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON June 16, 1985

**— APPEARANCES —**

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

The Board hereby consolidates cases 08241 and 08242.

Upon review of the entire record in this case, the Board of Appeals reverses the Appeals Referee's decision in case no. 08242. In case no. 08241, the Board of Appeals affirms the decision of the Appeals Referee, 'but for different reasons from those stated by the Appeals Referee.

In case no. 08242, the testimony is less than clear, but the Board finds as a fact that the claimant, who resided in Waldorf, was willing to work in her immediate area and in any area which could be reached conveniently by public transportation. This area included the entire city of Washington, D.C. and, apparently, some suburbs of Washington, D.C. The claimant ruled out from her area of employment only those suburbs of Washington, D.C. which could be reached only by taking a bus line from Waldorf, Maryland into Washington, D.C., then transferring by one or more buses to that suburb. According to the uncontradicted testimony of the claimant, bus transportation from Waldorf to downtown Washington was at such restricted hours that it would be impossible for her to work on a normal work day schedule in these relatively distant suburbs. The evidence is not very clear in this case, but it does tend to show that the claimant had public transportation available and was willing to accept work at any location which could be reached by this transportation within the normal work day. The claimant, however, had not really investigated the transportation problem to any great extent.

On the whole, the Board concludes that the claimant was primarily disqualified under §4(c) because she did not have private transportation available to her. This is in conflict with the Court of Appeals decision in Emp. Sec. Admin. v. Smith, 282 Md. 267, 383 A.2d 1108 (1978). For this reason, although the record is not very clearly developed, the Board concludes that there is insufficient evidence to disqualify the claimant under §4(c) of the law.

In case 08241, the Board will make the following findings of fact. In making these findings, the Board has considered the claimant's testimony to be less than credible. The Board notes, for example, that the claimant's sworn testimony concerning the conditions of her maternity leave of absence were in contradiction to her letter to Congressman Dyson which was entered into the appeal file. The Board will find as a fact that the claimant was granted a leave of absence in February, 1984 until June 5, 1984, that there was no assurance on the part of her employer that she would be returned to her exact same job at the conclusions of her leave of absence, that she was offered her exact same job at the exact same (Silver Hill) location just subsequent to the expiration of her leave of absence and that she decided after a few weeks' hesitation not to take that job. The Board rejects the claimant's testimony to the extent that it was in conflict with these findings of fact. Her reasons for not taking the job are not entirely clear, but it appears that the claimant was unwilling to enter into child care arrangements.

Based upon these new findings of fact, the Board concludes that the job which the claimant was offered was suitable work within the meaning of §6(d) of the law. In fact, it was the claimant's same job. The claimant's reason for refusing the job, that she

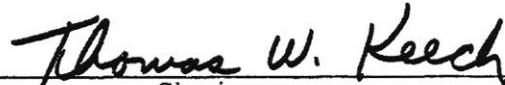
was unwilling to enter into child care arrangements, is not a good cause for refusing the job within the meaning of §6(d) of the law. The reason for refusing was not a simple need to take a few days to arrange for the child care but an actual decision of the claimant not to return to the job on account of child care considerations. For this reason, the disqualification imposed by the Appeals Referee in case 08241 will be affirmed.

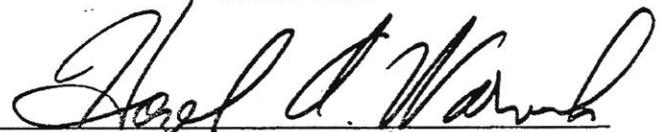
DECISION

In case no. 08241, the claimant did fail, without good cause, to accept an offer of suitable work within the meaning of §6(d) of the Maryland Unemployment Insurance Law. Benefits are denied for the week beginning June 10, 1984 and until the claimant becomes reemployed, earns at least ten times her weekly benefit amount (\$1,220.00) and thereafter becomes unemployed through no fault of her own.

In case no. 08242, no disqualification is imposed on the claimant under §4(c) of the law based upon the geographical area in which she was seeking work.

The decision of the Appeals Referee in case no. 08241 is affirmed; the decision of the Appeals Referee in case no. 08242 is reversed.

  
Chairman

  
Associate Member

K:W

kmb

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - WHEATON



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Appeals Counsel

DECISION

Date: August 23, 1984
Appeal No.: 08241
S. S. No.:
Employer: Government Service Savings & Loan
LO No.: 43
Appellant: Claimant

Issue: Whether the claimant failed, without good cause, to accept suitable work when offered Wit-bin the meaning of Section 6(d) of the Law.

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 EMPLOYMENT SECURITY OFFICE, OR WITH THE APPEALS DIVISION, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL-

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON September 7, 1984

APPEARANCES

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Present

Represented by
Thomas McCullough, Jr. ,
Area Supervisor

FINDINGS OF FACT

The claimant has a benefit year effective May 27, 1984. Her weekly benefit amount is \$122.00.

The claimant was offered her old position back with her employer but refused the job because it was in Prince George's County and it would be difficult for her to arrange transportation to get there on a daily basis.

At the end of the claimant's maternity leave, she was offered a job to return to work for her employer at their Prince George's County Branch. The claimant refused that position because from where she lives, the transportation would be very difficult. The claimant has available to her only public transportation and from where she lives, it is only available during restricted hours. The claimant states that her employer was aware of this when she was offered that position. At no time did the claimant refuse a position because she had no child care.

CONCLUSIONS OF LAW

It is concluded that the claimant refused an offer of suitable work because she could not arrange transportation to get to the particular job. The claimant lives in an area of limited public transportation and therefore, is limited in the areas in which she would accept work. The job offered in Prince George's County is in one of those areas. The claimant therefore, has not established good cause for refusing an offer of suitable work under Section 6(d) of the Law.

DECISION

The claimant did fail, without good cause, to accept an offer of suitable work within the meaning of Section 6(d) of the Maryland Unemployment Insurance Law. Benefits are denied for the week beginning June 10, 1984 and until the claimant becomes reemployed and earns at least ten times her weekly benefit amount (\$1,220.00).

The determination of the Claims Examiner under Section 6(d) of the Law is affirmed.

  
Carrie Crawford  
Appeals Referee

Date of hearing: August 13, 1984

jlt

(5968-M. Balco)

Copies mailed to:

Claimant

Employer

Unemployment Insurance - Wheaton



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MARK R. WOLF
Chief Hearing Examiner

DECISION

Date August 23, 1984
Claimant Claudette O. Ervin Appeal No.: 08242
S. S. No.:
Employee Government Service Savings & Loan 43
LO. No.:
Appellant Claimant

Whether the claimant was able, available and actively seeking work
Issue: within the meaning of Section 4(c) of the Law.

NOTICE OF RIGHT TO PETITION FOR REVIEW

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THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON September 7, 1984

APPEARANCES

FOR THE CLAIMANT

Present

FOR THE EMPLOYER:

Represented by
Thomas McCullough, Jr.
Area Supervisor

FINDINGS OF FACT

The claimant has a benefit year effective May 27, 1984. Her weekly benefit amount is \$122.00.

The claimant is not able and available for full-time work without restriction because she would not accept a job offer in Prince George's or Montgomery County areas because of transportation problems.

The claimant lives in an area of limited public transportation. Her only means of getting to work is by public transportation and if offered a job in Prince George's or Montgomery County, she would refuse because it would be too difficult to reach those areas. The claimant has, in fact, refused a job offer in Prince George's County because of the transportation problem.

CONCLUSIONS OF LAW

It is concluded that the claimant is not able and available for full-time work without restriction because she would not work in certain areas because of transportation problems. The claimant is, therefore restricting her availability under Section 4(c) of the Law.

DECISION

The claimant is not able for work, available for work and actively seeking work without restriction within the meaning of Section 4(c) of the Maryland Unemployment Insurance Law. Benefits are denied for the week beginning May 27, 1984 and until she notifies the local office that she is able to work, available for work and actively seeking work without restriction.

The determination of the Claims Examiner under Section 4(c) of the Law is affirmed.

  
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Carrie Crawford  
Appeals Referee

Date of hearing: August 13, 1984  
jlt  
(5968-M. Balco)

Copies mailed to:  
Claimant  
Employer  
Unemployment Insurance - Wheaton