

 **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.:	360-BR-90	
	Date:	April 10, 1990	
Claimant:	Brian S. Dawson	Appeal No.:	8915513
		S. S. No.:	
Employer:	Bayliner Marine Corporation	L O. No.:	3
		Appellant:	CLAIMANT
Issue:	Whether the claimant was available for work within the meaning of Section 4(c) of the 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, 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 AT MIDNIGHT ON **May 10, 1990**

— 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 only issue in this case is whether the claimant was available for work within the meaning of Section 4(c) of the law.

The reason that the claimant left his previous employment is a different issue. That issue was addressed by the agency in a determination which is not in the record in this case. In that determination, the claimant was given a five-week penalty for having voluntarily quit his job within the meaning of Section 6(a) of the law. That decision was not appealed by any party and was final.

Much of the testimony taken at the hearing, however, concerned the reason for the separation from employment. This testimony was relevant only insofar as it illuminates the background of the claimant's work history. The claimant's availability for work must be examined as of the time of his application, in the light of this background.

While the claimant was last working, he was attending classes three evenings a week. None of the classes began before six, and his normal work day ended at 3:30. As soon as the claimant stopped working, he obtained the ability to switch all but one of his classes to daytime classes, if necessary for employment reasons. Only one class, from 6:00 p.m. to 7:40 p.m. on Thursdays, could not be changed. The claimant has worked and attended part-time classes for six years. By agreement with his last employer and two previous employers, he has managed to comply with his employment duties and attend classes. (The only exception is the situation involving disputed overtime requirements at his last employment.)

Considering all of these factors, the Board concludes that the claimant was available for work within the meaning of Section 4(c). There were only a few hours per week during one evening during which the claimant was not available for work, and his work history shows in general an ability to conform to the requirements of a normal work day and also to go to school on a flexible part time schedule.

DECISION

The claimant was available for work within the meaning of Section 4(c) of the Maryland Unemployment Insurance Law. No disqualification is imposed on the basis of availability for work under this section of the law for the week beginning November 26, 1989, and thereafter.

The decision of the Hearing Examiner is reversed.

Thomas W. Keech
Chairman

Donna P. Watts
Associate Member

K:D

kmb

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CLAIMANT

EMPLOYER

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