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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:

DEBORAH A. LAUGHARD

Decision No.: 01119-BH-98

Date: April 8, 1998

Appeal No.: 9715223

S.S. No.:

Employer:

L.O. No.: 40

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.

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## - 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: May 8, 1998

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## - APPEARANCES -

FOR THE CLAIMANT:

Deborah A. Laughard  
Robert Lennon, Attorney

FOR THE EMPLOYER:

John T. McGucken



## EVALUATION OF THE EVIDENCE

The Board of Appeals has considered all of the evidence presented, including the testimony offered at the hearings. The Board has also considered all of the documentary evidence introduced in this case, as well as the Department of Labor, Licensing and Regulation's documents in the appeal file.

The hearing before the Board was for legal argument only. In the case of a determination of able, available, and actively seeking work, the claimant has the burden of proof. In this, case the Board is not persuaded by the claimant's argument and finds, based on a preponderance of the evidence, that she did not carry her burden as to her ability and her availability to work within the meaning of Section 8-903. The Board is persuaded with the Agency's argument that the claimant is not entitled to sick claims within the meaning of Section 9-907.

The Board is not persuaded that sufficient evidence was presented to show that the claimant could perform any work in light of her disability.

### FINDINGS OF FACT

The Board adopts the findings of fact of the hearing examiner.

### CONCLUSIONS OF LAW

Section 8-903 provides that a claimant must be able to work available to work and actively seeking work in each week for which benefits are claimed.

Md. Code Ann., Labor & Emp., Section 8-903 (Supp. 1994) provides that a claimant for unemployment insurance benefits must be (1) able and available for work and (2) actively seeking work without restriction upon availability for work. In Robinson v. Maryland Employment Sec. Bd. 202 Md. 515, 97 A.2d 300 (1953), the Court of Appeals held that a claimant may not impose restrictions upon his or her willingness to work and still be available as the statute requires.

Section 8-903(b) however provides that the Secretary may not use a disability of a qualified individual with a disability as a factor as finding that an individual is not able to work under Section (a)(1)(i) of this section. Section 8-903(a)(1)(i) provides that in order to be eligible for unemployment insurance benefits an individual shall be able to work.

Under the Americans with Disabilities Act (ADA) the term "disability" has been defined as either a physical or mental impairment that substantially limits one or more of the major life functions of an individual, a record of such an impairment or being regarded as having such an impairment.