



**DEPARTMENT OF HUMAN RESOURCES  
EMPLOYMENT SECURITY ADMINISTRATION**

1100 NORTH EUTAW STREET  
BALTIMORE, MARYLAND 21201

383-5032

— DECISION —

STATE OF MARYLAND

HARRY HUGHES  
Governor

KALMAN R. HETTMAN  
Secretary

BOARD OF APPEALS

THOMAS W. KEECH  
Chairman

HAZEL A. WARNICK  
MAURICE E. DILL  
Associate Members

SEVERN E. LANIER  
Appeals Counsel

DECISION NO.: 1123-BR-82

DATE: August 23, 1982

APPEAL NO.: 04262

S.S. NO.:

CLAIMANT: Robert G. Goldman

EMPLOYER: Allen's Auto SUPPLY

L. O. NO.: 45

APPELLANT: CLAIMANT

ISSUE: Whether the Claimant was unemployed within the meaning of Section 20(1) of the Law; and whether the Claimant was able to work, available for work and actively seeking 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 SUPERIOR 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

September 22, 1982

**— 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 Appeals Referee with regard to both Section 4(c) and Section 20(1) of the Maryland Unemployment Insurance Law.

In reviewing the record in this case, the Board has disregarded the Claimant's statement on the Form ESA 221/222. At two separate points during the hearing, the Claimant attempted to explain or qualify the statements he had made which were recorded on that form. Both times, the Claimant was not allowed to complete an explanation by the Appeals Referee. The Appeals Referee then clearly misled the Claimant into believing that his statements on the 221/222 would not be considered as part of the case and that there was no necessity for further explanation. Considering this fact, it was grossly unfair of the Appeals Referee to later use this statement as a basis for one of the crucial findings of fact. The Board concludes that, in these circumstances, it is unfair to use the statement on that form against the Claimant, and the Board has disregarded any statements on the Form 221/222 in rendering this review.

The Claimant was the president of the corporation which ran Allen's Auto Supply Company. This company was destroyed by fire on February 17, 1982. During the week following February 17, 1982 and up until about February 26, 1982, the Claimant spent most of his working hours actively arranging to find a new location for Allen's Auto Supply. This activity was done with the expectation that the insurance money for the claim would be promptly paid.

After a few days, it became apparent that the insurance company was not going to promptly pay the claim. There was a suspicion of arson, and the insurance company had not paid the claim as of the date of the hearing. The Claimant turned this matter over to an attorney.

The Claimant is unable to do anything to get back in business until the insurance company settles. He spent a small amount of time dealing with the affairs of the business, but no substantial period of time has been spent on the affairs of the business since the week ending February 27, 1982. The corporation has no income and pays the Claimant no income for his efforts.

On approximately March 1, 1982, the Claimant began searching for work in the field he was familiar with, that is, auto parts sales. The Claimant is telling prospective employers that he intends to reopen Allen's Auto Supply if and when he ever receives the insurance money. The Claimant, however, has received no indication that the money is forthcoming at any time soon, nor has he received any indication that the money is forthcoming at all.

In the Fourtinakis case, Board Decision No. 870-BH-81, the Board of Appeals clearly stated that the test as to whether a person was unemployed within the meaning of Section 20(1) of the Maryland Unemployment Insurance Law was whether or not that