

 **Maryland**  
Department of Economic &  
Employment Development

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Governor  
*Mark L. Wasserman*  
Secretary

*Board of Appeals*  
1100 North Eutaw Street  
Baltimore, Maryland 21201  
Telephone: (410) 333-5032

**- DECISION -**

Claimant:  
GERARD G. BROOKER

Decision No.: 0255-1-BR-94

Date: August 3, 1994

Appeal No.: 9321732

Employer:  
LOCUST LANE FARMS INC

S.S. No.:

L.O. No.: 08

Appellant: Board Assumed Jurisdiction

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: September 2, 1994

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**REVIEW ON THE RECORD**

Upon review of the record in this case, the Board of Appeals adopts the findings of fact of the Hearing Examiner. However, the Board concludes that these facts warrant a different conclusion of law.

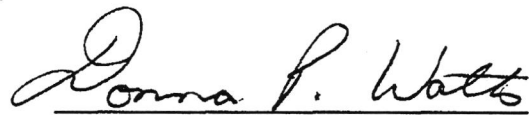
Section 903 of the Labor and Employment Article of the Annotated Code of Maryland requires that a claimant be able, available and actively seeking work when he opens his claim for unemployment benefits. The claimant was scheduled for surgery on the day he opened his claim. Therefore it was impossible for the claimant to be able, available and actively seeking work that day.

The claimant was not able, available and actively seeking work until he was released by his physician to return to work on November 8, 1993.


DECISION

The claimant was not able, available and actively seeking work within the meaning of Section 8-903 when he opened his claim on September 27, 1993. He is disqualified from receiving benefits from the week beginning September 26, 1993 through the week ending November 6, 1993.

The decision of the Hearing Examiner is modified.



Donna P. Watts, Associate Member



Clayton A. Mitchell, Sr., Associate Member

kjk

Copies mailed to:

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