

 **Maryland**  
Department of Economic &  
Employment Development

*William Donald Schaefer, Governor*  
*J. Randall Evans, Secretary*

*Board of Appeals*  
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*Board of Appeals*  
*Thomas W. Keech, Chairman*  
*Hazel A. Warnick, Associate Member*  
*Donna P. Watts, Associate Member*

— DECISION —

	Decision No.:	272-BH-91
Robert S. Smith	Date:	March 13, 1991
Claimant:	Appeal No.:	9008674
Donald Perdew	S. S. No.:	9008675
Employer: Allegany County Bd. of Education	Case No.:	3
	Appellant:	CLAIMANT
Issue:	Whether the claimant had a contract or reasonable assurance of returning to work under Section 4(f)(4) of the law.	

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— NOTICE OF RIGHT OF APPEAL TO COURT —

YOU MAY FILE AN APPEAL FROM THIS DECISION IN ACCORDANCE WITH THE LAWS OF MARYLAND. THE APPEAL MAYBE 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

April 12, 1991

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— APPEARANCES —

FOR THE CLAIMANT:

Robert Smith - Claimant  
Donald Perdew - Claimant  
Cynthia Fenimore, Esquire - Legal Aid Bureau

FOR THE EMPLOYER:

Not Represented

#### PROCEDURAL NOTE

These cases were consolidated for the purposes of this hearing, due to the similarity of issues and facts.

#### EVALUATION OF 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 Economic and Employment Development's documents in the appeal file.

#### FINDINGS OF FACT

The claimants are employed by the Allegany County Board of Education as substitute custodians and cleaners. The claimants would fill in for regular custodians when they were sick or on vacation. Their last day of work, prior to the summer of 1990, was June 6, 1990. They were, however, available and subject to be called to work all summer long. At least three full-time custodians worked during the summer of 1990. Some substitute custodians were called in to help clear asbestos at one of the schools. The claimants themselves had worked during past summers.

The claimants signed letters of intent to continue as substitute cleaner/custodians for the '90-'91 school year. Without these letters, their names would have been removed from the substitute list.

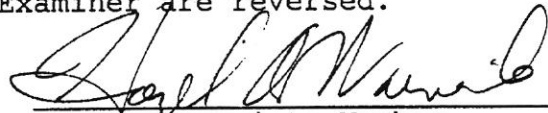
#### CONCLUSIONS OF LAW

The Board of Appeals concludes that the claimants are not disqualified under Section 4(f)(4) of the law. The Board need not reach the issue of reasonable assurance because the claimants' period of unemployment had no relationship to the period between two successive academic years. They were and are substitute custodians who work sporadically, but on a year round basis. They were on call 12 months, including the summer. Although they did not work during the summer of 1990, as other custodians did, these claimants worked during other summers. Therefore, a disqualification under Section 4(f)(4) is not appropriate. See, Ritchie v. Allegany County Board of Education, 205-BR-85.

DECISION

The claimants were not unemployed for a period between two successive academic years or terms, within the meaning of Section 4(f)(4) of the law. No disqualification is imposed based upon the claimants' separation from employment with Allegany County Board of Education.

The decisions of the Hearing Examiner are reversed.

  
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Associate Member

  
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Associate Member

H:D

kmb

DATE OF HEARING: October 23, 1990

COPIES MAILED TO:

CLAIMANTS

EMPLOYER

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UNEMPLOYMENT INSURANCE - CUMBERLAND