



**DEPARTMENT OF EMPLOYMENT AND TRAINING**

STATE OF MARYLAND  
1100 NORTH EUTAW STREET  
BALTIMORE, MARYLAND 21201

383-5032

**—DECISION—**

STATE OF MARYLAND  
HARRY HUGHES  
Governor

BOARD OF APPEALS  
THOMAS W. KEECH  
Chairman

HAZEL A. WARNICK  
MAURICE E. DILL  
Associate Members

SEVERN E. LANIER  
Appeals Counsel

DECISION NO.: 409-BR-84  
DATE: April 23, 1984

CLAIMANT: Francis P. Spaniard

APPEAL NO.: 00804

S.S.NO.:

EMPLOYER:

LO. NO.: 2

APPELLANT: AGENCY

ISSUE Whether the claimant was able, available and actively seeking work within the meaning of §4(c) 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 MAY BE TAKEN IN PERSON OR THROUGH AN ATTORNEY IN THE CIRCUIT 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 May 23, 1984

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**- APPEARANCE -**

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

Upon a review of the record in this case, the Board of Appeals reverses the decision of the Appeals Referee .

The claimant in this case was exempted from producing evidence that he was actively seeking work. This was done under that provision on §4(c) of the law which allows the Secretary to do so where a claimant has been laid off for a certain period of less than ten weeks.

Under a former departmental policy, however, a claimant could be later retroactively disqualified under §4(c) if, when later audited, he was unable to produce evidence of his work search during the week in question. See, U.I. Division Instruction 17-83 (May 31, 1983).

This claimant was retroactively disqualified under the above policy. Since then, the agency has changed its policy and now interprets that section of §4(c) as exempting claimants from searching for work in these circumstances. See, U.I. Administration Instruction 4-84 (February 21, 1984).

Although the words of the statute exempt a claimant from "producing evidence required under [§4(c) ]," the Board concludes that the new interpretation is reasonable and correct. The statute goes on to state:

however, such employees must comply with the provisions of subsection (a) of this section and must be able to work and otherwise fully available to work.

This language indicates that the exemption from "producing evidence" does not exempt a claimant from the requirement that he be able to work and available for work. The unstated implication in the statute is that a claimant in these circumstances is exempt from actively seeking work. The agency's new interpretation correctly interprets this policy.

Applying this interpretation to this case, it is clear that the claimant should not be disqualified under §4(c) of the Law.

#### DECISION

The claimant met the requirements of §4(c) of the law for the week ending September 10, 1983.

The decision of the Appeals Referee is reversed.

  
Chairman

  
Associate Member

K:W  
kbm  
COPIES MAILED TO:

CLAIMANT

Robert W. Wills - Supervisor  
Random Audit Unit  
Room 300

UNEMPLOYMENT INSURANCE - GLEN BURNIE