



*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.:   | 986-BR-90       |
|                               | Date:   | October 4, 1990 |
| Claimant: <u>Caren Spence</u> | Appeal No.:   | 9009638         |
|                               | S. S. No.:  |                 |
| Employer:                     | L O. No.:   | 2               |
|                               | Appellant:  | CLAIMANT        |
| Issue:                        | Whether the claimant was able to work, available for work, and actively seeking work within the meaning of Section 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 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.

November 3, 1990

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

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**— 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 Hearing Examiner.

The claimant in this case is not available for night work, because of serious personal reasons. The question is whether this disqualifies her from benefits under Section 4(c) for being unavailable for work.

The Hearing Examiner cited the correct standard of law, derived from the Cox v. American Graphic Arts case (812-BH-81). Under this standard, it is necessary to determine the usual and customary working hours in a claimant's trade. The Hearing Examiner, however, limited consideration of the claimant's "trade" to her last job.

The claimant in act has had many jobs, and is classified as both a splicer<sup>1</sup> and an electronic technician. Her job experience includes not only photographic production work but also installing fire alrms, working in a sheet metal shop , office work, working as an expediter (obtaining governmental permits, etc.) and as equipment manager in a fire department.

She is applying for a wide variety of jobs at a wide variety of companies. Considering that she also has a wide variety of experience, the Board concludes that it would be inappropriate, in the circumstances of this case, to consider the claimant's last job<sup>2</sup> as her "trade," and to consider the limitations she put on her hours as ruling out too many jobs of that "trade." The claimant's experience and her job search are both sufficiently broad that the limitations she has placed on her hours were reasonable, since it appears that most of the types of jobs to which she applied are conducted in the day time.

The evidence in this case, both from the claimant and the agency witness, was somewhat vague. The Board has given the claimant the benefit of the doubt with respect to her job history and job search. The claimant's actions do seem reasonable, especially in light of the medical problems she experienced in her previous employment.<sup>3</sup> Her hourly limitations seem reasonable in light of the range of jobs she is qualified for and is actually seeking.<sup>4</sup>

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<sup>1</sup>The evidence does not show exactly what a "splicer" is. The claimant testified that she had been a "pre-splicer."

<sup>2</sup>The Board also notes that the claimant had an exposure to a chemical spill on her last job, and that this problem has limited her work in this type of employment.

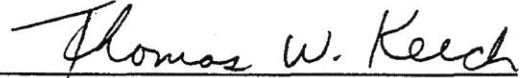
<sup>3</sup>See, footnote 2, supra. In making this decision, the Board has also considered the tape of the hearing in the claimant's separation case, no. 9009638.

<sup>4</sup>The Board finds no merit whatsoever in the claimant's contention that the Hearing Examiner cut off her answers or turned off the tape during the hearing.

DECISION

The claimant was available for work, within the meaning of Section 4(c) of the Maryland Unemployment Insurance Law. No penalty is imposed based upon her limitations of her hours, under Section 4(c) of the law.

The decision of the Hearing Examiner is reversed.



Chairman



Associate Member

K:HW

kbm

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CLAIMANT

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