

**- DECISION -**

Claimant:  
PAMELA A MOXLEY

Decision No.: 1164-BR-06

Date: May 30, 2006

Appeal No.: 0604757

S.S. No.:

Employer:

L.O. No.: 63

Appellant: Agency

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: June 29, 2006

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**REVIEW ON THE RECORD**

The Board adopts the following findings of fact and reverses the hearing examiner's decision. The claimant opened a claim for benefits with a benefit year beginning on December 14, 2006.

The claimant was in Hawaii from February 10, 2006 through February 22, 2006. The claimant attended her daughter's wedding held on February 18, 2006. She had her house sitter mail out resumes during her absence. The claimant admits that during her absence, a potential employer, "Ruth's Chris Steak House", called the claimant for an interview. The potential employer was interviewing from February 13, 2006 through February 27, 2006. The claimant instructed her house sitter to inform the potential employer that she was "not available" for an interview until her return from Hawaii. The claimant actively sought work on her own after she returned from Hawaii.

Section 8-903 provides that a claimant must be able to work available to work and actively seeking work in each week for which benefits are claimed.

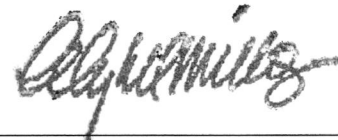
The Board finds that under the facts of this case the claimant did not make an honest and active search for work. *Nachand, 181-BH-84*. The claimant delegated her work search to her house sitter while she was in Hawaii. The claimant was out of state for 13 days. Although she asserts that she was attending her daughter's wedding, the length of her absence is tantamount to a Hawaiian vacation. The claimant was not available for a job interview until her return; therefore, the Board finds that the claimant was not available for work.

The provisions of § 8-903(a) is a conjunctive test. The claimant has the burden of proving all three in order to be eligible for benefits. The Board finds that when a claimant is out of state and otherwise unavailable to interview for full time work, the fact that a claimant delegates his or her job search to another in her absence does not support a finding in favor of benefits. The claimant has not met her burden in this case. The hearing examiner's decision shall be reversed.

### DECISION

The claimant is not able to work, available for work and actively seeking work within the meaning of Maryland Code Annotated, Labor and Employment Article, Title 8, Section 903. She is disqualified from receiving benefits from the week beginning February 12, 2006 through February 26, 2006.

The decision of the Hearing Examiner is reversed.



Clayton A. Mitchell, Sr., Associate Member



Donna Watts-Lamont, Associate Member

Copies mailed to:  
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