

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
J. Randall Evans, Secretary
Board of Appeals
1100 North Eutaw Street
Baltimore, Maryland 21201
Telephone: (301) 333-5032

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

— DECISION —

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|------------------------------------|---------------|-----------------|
| | Decision No.: | 1212-BH-91 |
| | Date: | October 4, 1991 |
| Claimant: Alton Small | Appeal No.: | 9104280 |
| | S. S. No.: | |
| Employer: Mel McLaughlin Co. Corp. | L. O. No.: | 40 |
| | Appellant: | CLAIMANT |

Issue: Whether the claimant failed, without good cause, to apply for or to accept available, suitable work, within the meaning of Section 8-1005(a) of the Labor and Employment Article.

— 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, 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

November 3, 1991

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Alton Small, Claimant
Vernell Wilson, Witness
Frances Dziennik, Attorney

Employer not
represented

EVALUATION OF THE 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.

The Board found the testimony of the claimant and his witness before the Board of Appeals to be credible. As such, this testimony carries more weight than the contrary hearsay testimony before the Hearing Examiner.

FINDINGS OF FACT

The claimant was employed for approximately two years for the Mel McLaughlin Company, the employer in this case. He worked as both a truck driver and a truck foreman. After August of 1990, because of a lack of work, he transferred from the job of truck foreman to the job of truck driver. As a truck driver, he worked 28.5 hours in September of 1990 and 50 hours in October of 1990. His last day of work was October 18, 1990, when he was laid off from work. From that point on, the claimant received no offers of work of any kind, with the exception of the incident noted immediately below. On December 27, 1990, the claimant received a mailgram at approximately 2:30 p.m. to work that day. The claimant immediately called the foreman, but the foreman told him that no work was available. No prior or subsequent offers of work were made to the claimant.

CONCLUSIONS OF LAW

Since the claimant was not offered work of any kind, no penalty may be imposed upon him under Section 8-1005 of the law.

DECISION

The claimant did not refuse suitable work within the meaning of Section 8-1005 of the Labor and Employment Article. No disqualification is imposed under that section of the law based on any alleged refusals of work with this company.