

 **Maryland**
Department of Economic &
Employment Development

William Donald Schaefer, Governor
J. Randall Evans, Secretary

Board of Appeals
1100 North Eutaw Street
Baltimore, Maryland 21201
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Board of Appeals
Thomas W. Keech, Chairman
Hazel A. Warnick, Associate Member
Donna P. Watts, Associate Member

— DECISION —

Decision No.:	1330-BR-91
Date:	October 25, 1991
Claimant: Jessie Mays	Appeal No.: 9110928
	S. S. No.:
Employer: American Concrete, Inc.	L. O. No.: 7
	Appellant: CLAIMANT

Issue: Whether the claimant was able to work, available for work, and actively seeking work within the meaning of Section 8-903 of the Labor and Employment Article.

— NOTICE OF RIGHT OF APPEAL TO COURT —

YOU MAY FILE AN APPEAL FROM THE 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, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES

November 24, 1991

— 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 on the merits.

The claimant was injured on the job in October of 1990. He suffered a laceration of his finger. Medical documentation is sketchy, and the dates on the medical forms are inaccurate. It is clear, however, from the totality of the evidence, that the claimant did suffer an injury in October of 1990 and that he began therapy in January of 1991 and was able to work shortly thereafter. He returned to his old employer in order to resume working, but he was told that he was laid off. The claimant then applied for unemployment insurance benefits.

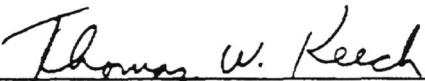
There is insufficient evidence to rebut the claimant's and his wife's testimony that he is able to work. The fact that he suffered a laceration of his finger in October of 1990 is not a sufficient reason to deny him benefits on the basis of that same injury in March of 1991. This is especially true where the medical document substantiating the injury itself is fraught with careless errors, and where the claimant is unable to obtain another medical statement due to problems between his employer and his employer's workman's compensation insurance carrier. In any case, this is the type of injury whose effects are easily observed. There is nothing to refute the testimony of the claimant or his wife that the lacerated hand is substantially cured and that he is able to work. The claimant has thus established by a preponderance of the evidence that he is able to work within the meaning of Section 8-903 of the Labor and Employment Code.

DECISION

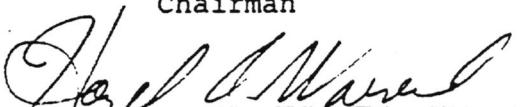
The procedural rulings of the Hearing Examiner are affirmed.

The claimant was able to work within the meaning of Section 8-903 of the law from the inception of his claim for benefits. No disqualification is appropriate under that section of the law based upon the condition of the claimant's hand.

The decision of the Hearing Examiner is reversed.



Chairman



Associate Member

K:W
kbm
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