

## **DECISION**

Claimant:  
KIM M SPELLER

Decision No.: 1506-SE-03

Date: June 03, 2003

Appeal No.: 0300194

Employer:  
POTOMAC HOME SUPPORT INC

S.S. No.:

L.O. No.: 63

Appellant: Claimant

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: July 03, 2003

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### **- APPEARANCES -**

FOR THE CLAIMANT:

KIM M. SPELLER

FOR THE EMPLOYER:

FAILED TO APPEAR

## **PRELIMINARY STATEMENT**

The Board of Appeals has considered all of the evidence presented, including testimony offered at the hearings, documentary evidence introduced in the case, as well as the Department of Labor, Licensing and Regulation appeal file.

## **FINDINGS OF FACT**

The claimant was discharged by the employer herein for a non-disqualifying reason. She had been working on a part-time basis because of her medical problems. The claimant is diagnosed with “end stage renal disease, hypertension, and anemia” requiring hemodialysis at least three times per week, see Claimant Exhibit #1. The claimant is a “qualified individual with a disability”.

The claimant is able to work, available for work and actively seeking work within the limits that her disability dictate.

## **CONCLUSIONS OF LAW**

Md. Code Ann., Labor & Employment Article, Section 8-903(b) states that the Secretary may not use the disability of a qualified individual with a disability as a factor in finding that an individual is not able to work under Section 8-903(a)(1)(i).

Allowing a claimant to receive unemployment benefits who is limited to part-time work as a result of her disability and who is genuinely attached to the labor market and is actively seeking and willing to accept jobs that exist to accommodate her disability, would not “fundamentally alter the nature” of the unemployment insurance program. Scribner v. Anthropologie Inc, 259-BH-03.

## **EVALUATION OF THE EVIDENCE**

The claimant presented sufficient testimony and documentary medical evidence to support her position that she is able, available, and actively seeking work within the meaning of LE, Section 8-903 of the Maryland Unemployment Insurance Law. She presented credible evidence to reveal that she was a “qualified individual with a disability” and as such should not be disqualified from benefits due to restrictions of her disability.