

 **Maryland**
Department of Economic &
Employment Development

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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.:	2170-BR-92
	Date:	Dec. 11, 1992
Claimant: <u>Mary E. Werle</u>	Appeal No.:	9217498
	S. S. No.:	
Employer: <u>Giant of Landover, Inc.</u>	L. O. No.:	23
	Appellant:	CLAIMANT
Issue:	Whether the claimant was able to 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 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.

January 10, 1993

THE PERIOD FOR FILING AN APPEAL EXPIRES

— APPEARANCES —

FOR THE CLAIMANT:

REVIEW ON THE RECORD
FOR THE EMPLOYER:

Upon review of the record in this case, the Board of Appeals modifies the decision of the Hearing Examiner.

The Board adopts the findings of fact of the Hearing Examiner. The Board also finds as a fact that the claimant remained unable to do any type of work until the week beginning August 16, 1992, but was fully capable after that date to perform the services of her primary occupation as a schoolteacher.

The Board reverses the conclusions of law of the Hearing Examiner. The Robinson case dealt with availability for work not ability to work. A claimant need not be able to do every type of work that she has ever done in order to be able to work within the meaning of §8-903 of the law. Where the claimant remains able to do the type of work which she has customarily performed on a full-time basis, that claimant cannot be disqualified under §8-903 for being unable to perform an additional type of work which she customarily performed on a part-time basis.

Since the claimant became able to work at her primary occupation during the week beginning August 16, 1992, the penalty will be lifted as of that date.

DECISION

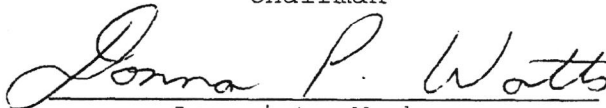
The claimant is not able to work within the meaning of Section 8-903 of the Labor and Employment Article from the week beginning July 12, 1992 through August 15, 1992. She is disqualified from the receipt of benefits for that period.

Beginning with the week beginning August 16, 1992, the claimant was able to work within the meaning of §8-903 of the Labor and Employment Article. No disqualification is imposed based on ability to work after that date.

The decision of the Hearing Examiner is modified.



Chairman



Associate Member

K:D

kmb

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CLAIMANT

EMPLOYER

Paul E. Draper, Esquire