

 **Maryland**  
Department of Economic &  
Employment Development

*William Donald Schaefer, Governor*  
*J. Randall Evans, Secretary*

*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.:	278-BR-90
	Date:	March 20, 1990
Claimant: Stephen T. Pequigney	Appeal No.:	9000144
	S. S. No.:	
Employer:	L O. No.:	2
	Appellant:	CLAIMANT
Issue:	Whether the claimant was able to work and available for work within the meaning of Section 4(c) of the law.	

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— 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 AT MIDNIGHT ON April 19, 1990

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— 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.

The issue in this case was whether the claimant's self-employment is imposing a restriction on his availability for work within the meaning of Section 4(c) of the Law. The Board has ruled on many such cases. In the case of Pearson v. Arrow Cab Company (153-BR-84), the Board ruled that a claimant who drove a taxi cab 36 to 40 hours per week was not available for work within the meaning of Section 4(c). In the Veith case (34-BR-82), the Board ruled that a claimant was not meeting the requirements of Section 4(c) where he was spending 25 hours per week trying to set UP his own business. That claimant was ruled to be not eligible, despite the fact that he was contacting two to three employers per week in a search for other employment. The Board stated in that case that a claimant need not completely divest himself of his business in order to meet the requirements of Section 4(c) of the law, but that a claimant who spends as much as 25 hours per week promoting his business while making only two to three contacts in search of other work is not meeting those requirements.

On the other hand, the Board has ruled that absent evidence that the claimant limited her job search in any way, the fact that she assisted her husband in his business several hours per week was not disqualifying under Section 4(c). Hebb v. Leonard's Movers (1077-BH-81). Likewise, the Board ruled that a claimant's limited involvement in winding up the affairs of a corporation which had been sold was not so extensive as to render the claimant ineligible under Section 4(c). Kahler v. Old Town Sound Company (88-SE-82).

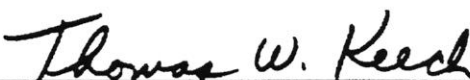
This case falls in between these two extremes. The claimant does work two to three hours per day, but the amount of work per day is declining as the business has been set up. The business is not intended to be anything but a part-time sideline for this claimant. If the business begins ever actually operating and generating revenue, the claimant will be required to work less, not more hours. The business is also limited by the amount of the claimant's capital to a size which will never require his full-time efforts. The claimant is diligently looking for a job requiring forty or more hours of work and is planning to design the work of his business to fit into his own leftover hours when this happens.

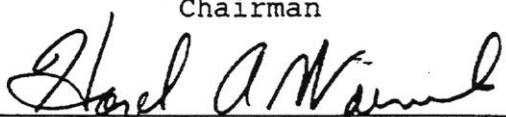
Taking into consideration all of the factors cited in the paragraph above, the Board concludes that the claimant was available for work within the meaning of Section 4(c) of the law.

DECISION

The claimant is available for work within the meaning of Section 4(c) of the Maryland Unemployment Insurance Law. The disqualification imposed for the week beginning December 10, 1989 under Section 4(c) of the law is rescinded.

The decision of the Hearing Examiner is reversed.

  
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Chairman

  
\_\_\_\_\_  
Associate Member

kmb

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CLAIMANT

UNEMPLOYMENT INSURANCE - GLEN BURNIE