



DEPARTMENT OF HUMAN RESOURCES
EMPLOYMENT SECURITY ADMINISTRATION

1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

383 - 5032

- DECISION -

STATE OF MARYLAND

HARRY HUGHES
Governor

KALMAN R. HETTLEMAN

BOARD OF APPEALS

JOHN J. KENT
Chairman

HENRY G. SPECTOR
HAZEL A. WARNICK
Associate Members

SEVERN E. LANIER
Appeals Counsel

DECISION NO.: 847-BH-81

DATE: 9-5-81

APPEAL NO.: 13050

S. S. NO:

CLAIMANT: Julia Waring

EMPLOYER: Burton Parsons, Inc.

L. O NO.: 43

APPELLANT: CLAIMANT

ISSUE Whether the Claimant was able to work and available for work within the meaning of Section 4(c) of the Law.

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 SUPERIOR COURT OF BALTIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT

October 3, 1981

-APPEARANCES -

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Julia Waring - Claimant
Harriet Taylor - Legal Aid

Not Represented

FINDINGS OF FACT

The Claimant was first employed by Burton Parsons, Inc., in June of 1973. The Claimant was employed as a Laboratory Technician. She was earning \$213.00 per week at the time she left her employment on March 2, 1980.

The Claimant had injured her right leg in an automobile accident in 1977. After recovering from this accident, she returned to work. In 1978, she suffered a fall on the job, reinjuring her right leg.

She was paid Workmen's Compensation benefits for this injury during March, April and May of 1980. The Claimant recovered from her injury to the extent that she was able to perform any light work that did not require prolonged standing.

The Claimant's work as a Laboratory Technician at Burton Parsons, Inc., did require constant standing. The work was, in other respects, light work.

The Claimant requested that she be placed on duty which did not require constant standing. Although some attempts were made to reorganize her job so as to eliminate constant standing, these attempts were unsuccessful.

The Claimant is seeking work in the receptionist and clerical field, as well as work as a laboratory technician. She can function in some positions as a laboratory technician, provided that the laboratory is organized differently from that of her last Employer. She has some experience performing receptionist and clerical duties.

The Claimant is forty-one years old and has an eleventh grade education.

CONCLUSIONS OF LAW

The Board has long held that a Claimant may, in certain circumstances, be held to be able and available for work even if unable to perform his or her last job.

The Law requires that an individual is able to work, but this does not mean that he must be able to do the work he performed in his last employment. Changes in an individual's condition may occur through illness, accident or the passing years which may require a change in work habits or work rehabilitation.

C.E. Kimmel and Company, Board Decision No. 11-EA-66, June 22, 1956.

In a case where a Claimant cannot perform his or her former work, a determination of whether he or she meets the requirements of Section 4(c) must be made. The factors to be considered in such a case were set out in Randall v. Employment Security Administration, CCH, UIR, Paragraph No. 8400, Superior Court of Baltimore City, decided December 13, 1976. In that case, Judge Greenfield stated: