

6.00

ELIGIBILITY - SEEKING WORK

Section 28(1)(a)

<u>Case Name</u>	<u>Page</u>
Haberman v The Stroh Brewery Co . . . . .	6.01
Lothian v Rifkin, Shultz & Kingsley, P.C. . . . .	6.02

6.01

Section 28(1)(a), 28(1)(c)

SEEKING WORK, Waiver of seeking work, Availability

CITE AS: Haberman v The Stroh Brewery Co, 1981 BR 57623 (B77 3056).

Appeal pending: No  
Claimant: Charles Haberman  
Employer: The Stroh Brewing Co.  
Docket No: B77 3056 57623

BOARD OF REVIEW HOLDING: When a seeking work waiver is in effect the fact that a claimant is not actively seeking work cannot be the basis of an adverse finding under the able and available provision.

FACTS: Following a period of light duty work after an injury, the claimant's employment came to an end because of a mandatory retirement policy. The employer contested claimant's eligibility for benefits under the able and available provisions of the Act. During the course of the hearing it was established claimant had contacted only three possible employers during 10 months of unemployment. A waiver of the seeking work requirement was in effect during the period in question.

DECISION: The claimant was not ineligible for benefits under Section 28 except for a period he admitted he was not attached to the labor market.

RATIONALE: The entire Board cited Hinga v Brown Co., No. 78 3585 (Mich App June 25, 1980) for the principle that a claimant's failure to seek work cannot be used as a criterion of availability when the seeking work requirement has been waived by the Commission. Three Members of the Board went on to say that the principle of Hinga applies even if the claimant does not have actual knowledge of the waiver.

12/91  
3, 6, 5, 14, 15:NA

Section 28(1)(a)

SEEKING WORK, Legal secretary

CITE AS: Lothian v Rifkin, Shultz & Kingsley, P.C., No. 47129 (Mich App August 18, 1980).

Appeal pending: No

Claimant: Janice Lothian  
Employer: Rifkin, Shultz & Kingsley, P.C.  
Docket No: B76 10412 52303

COURT OF APPEALS HOLDING: The claimant failed to establish that she was conducting an exhaustive employment search and was therefore ineligible for unemployment benefits.

FACTS: Claimant had been employed as a legal secretary. During the 12 week period of unemployment, she sought work only a few times, mostly by telephone. She physically visited the offices of prospective employers on only two occasions. Claimant did not seek the assistance of employment agencies and did not use the Detroit Legal News, the publication through which she had obtained her last employment.

DECISION: The claimant was ineligible for unemployment benefits.

RATIONALE: Claimant did not establish that she was genuinely seeking work of a character which she was qualified to perform by past experience and training and for which she had previously received wages.

12/91

NA

