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Recognised arrangement existed whereby Association Secretary should have lodged an informal claim for all the men thrown idle by a trade dispute.

*Held* that his failure to do so did not deprive the men of benefit

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1. My decision is that the claim for unemployment benefit is allowed.
2. The claimant, who was employed as a back ripper at a colliery, lost his employment on the 9th, 10th and 11th November last by reason of a stoppage of work which was due to a trade dispute at his place of employment. No claim for unemployment benefit was made by or on behalf of the claimant until the 12th November, when a claim was made, apparently by the claimant in person. The claim was disallowed by the Insurance Officer on the ground that the claimant failed to make a claim within the time prescribed, and has not proved in respect of the said period (*a*) that on a date earlier than the date on which the claim was made, apart from satisfying the condition of making a claim, he was entitled to the benefit; and (*b*) that throughout the period between the earlier date and the date on which the claim was made there was good cause for delay in making such a claim.
3. In his observations on the claimant's appeal the local Insurance Officer states that the Branch Secretary of the claimant's Association should have lodged an informal claim on the first day of the dispute and that he should have been aware of the requirements in view of a case before the Court of Referees in 1946.
4. The claimant appealed to the Local Tribunal, who allowed his appeal.
5. The Tribunal recorded the following evidence by the claimant and the Branch Secretary of his Association: The claimant was not a member of the grade of workers who had withdrawn their labour. When the claimant lost his employment on the 9th November he saw the Branch Secretary and "put in for lock-out pay". The claimant added that he left the matter with the Branch Secretary and had he (the claimant) known that he himself ought to put in a claim for benefit immediately he would have done so. The Branch Secretary said that the stoppage was against the advice of Union Representatives and that he tried to persuade the men concerned to return to work but they refused. On the 9th the Branch Secretary submitted a claim for lock-out pay to the headquarters of the Association. On the 12th the headquarters informed the Branch Secretary that no lock-out pay would be payable. He then notified the claimant and advised him to make a claim at the Employment Exchange for unemployment benefit.
6. The Tribunal recorded the following "Grounds of Decision and Findings on Questions of fact material to the decision": "The position of Mr. Taylor is disregarded. The claim is considered on its merits as affecting Hewitt and on his evidence. Whilst the claim was not lodged—Hewitt was not rendered unemployed by any fault of his own. He thought he was 'locked-out' and in consequence would receive pay from the Union. Some delay occurred before he was advised that 'lock-out' pay would not be payable. *Note.*—The decision is given in Hewitt's favour and as affecting the 400 other men so long as the 13 belt or pan turners are not included."

C.U. 78/49 (K.L.)

7. Under " Full text of decision " they stated : " It is felt that there was good cause for the failure on the part of Hewitt to make the claim within the prescribed time ".

8. The Insurance Officer appeals. He conceded that neither the claimant nor any members of the grade of workers to which he belonged were participating in or financing or directly interested in the dispute so that the claimant satisfies Proviso (i) to Regulation 11(1) of the National Insurance (Claims and Payments) Regulations 1948 [S I. 1948 No. 1041), but the Insurance Officer contended that the claimant had not proved that there was good cause for the failure to make the claim before the date on which it was made. He pointed out that the claimant and the other members of his grade did not make claims for benefit, relying upon their Branch Secretary to make an informal joint claim on their behalf, that the Branch Secretary omitted to make the claim for the reason stated by him at the hearing, viz., that he awaited the outcome of a claim to lock-out pay which he made to his Union Headquarters and which was refused. The Insurance Officer submitted that neither ignorance on the part of the claimant of his duty to make a claim nor reliance on the Branch Secretary to make a claim for him could constitute " good cause " within the meaning of the regulation.

9. The Tribunal state that they have disregarded the position of the Branch Secretary and they have not recorded any findings as to the arrangement that the Branch Secretary of the Association should submit informal claims on behalf of its members or as to the reason why the Branch Secretary failed to lodge a claim in accordance with this arrangement.

10. It seems clear from the statement by the local Insurance Officer and the evidence recorded by the Local Tribunal that such an arrangement did exist. It appears from the recorded evidence that neither the Branch Secretary nor the claimant was aware of this arrangement but that the claimant relied upon the Branch Secretary to advise him how to proceed. I also infer from the evidence that until the 12th November the claimant and the Branch Secretary expected that the Association would pay " lock-out pay " to the claimant and other members of the Association who had lost their employment. As soon as the Branch Secretary learnt that no lock-out pay would be paid he advised the claimant to claim unemployment benefit. Presumably therefore he believed that if lock-out pay had been granted those receiving it would not have been entitled to benefit, on the ground that the Association to which they belonged would then have been financing the dispute. I think that this belief was probably correct and that it constituted good cause for the delay of three days while the Branch Secretary was awaiting an answer from the headquarters of the Association. (See Umpire's Decisions 3505/31, 81/45, 272/47 and 369/47, also C.U. 40/49, all unreported.)

11 I am also of opinion that even if there had been no question of " lock-out pay " an arrangement such as existed in this case, that in case of a stoppage of work involving a substantial number of workers an informal claim should be presented by the Branch Secretary of the Association, would *prima facie* constitute good cause for the failure of an individual worker to make a claim.

12. This view was taken in a number of unreported decisions of the Umpire some of which are cited in Umpire's Decision 1019/41 unreported. In these cases it was held that the workers are entitled to rely on the Branch

Secretary or other officer of the Association concerned to make an informal claim in accordance with the arrangement and that failure on his part to do so without good cause will not affect the workmen's claim for benefit though it will deprive the Secretary of his personal right to benefit. If, however, a worker becomes aware that the Secretary has omitted to make an informal claim in accordance with the arrangement and there is no apparent justification for the delay the worker must take reasonable steps to see that the claim is made. If he fails to do so he will no longer have good cause for failing to make a claim. See Umpire's Decision 405/42. In the present case there appears to be no reason to suppose that during the short interval before he made his claim the claimant became aware that the Branch Secretary had not taken all necessary steps to comply with the requirements of the Employment Exchange under the arrangement.

13. I should add that when Decision 149/48 was given my attention had not been called to the above-mentioned unreported decisions of the Umpire. In so far as U.D. 149/48 implies that delay on the part of the representative of an Association in making the informal claim will defeat the individual worker's claim to benefit unless the representative had good cause for his delay the decision should not be followed.

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