
Alleged claim for benefit not made on approved form—respective functions of Minister and statutory authorities

Held that, where a document which is alleged to be a claim for benefit is not a form approved by the Minister for the purpose, it is for the Minister to decide whether the manner in which the alleged claim is made can be accepted as sufficient within regulation 2(1) of the National Insurance (Claims and Payments) Regulations, 1948; but it is for the statutory authorities to decide whether the document is a claim for the purposes of section 28(1) of the National Insurance Act, 1946.

1. My decision is that the claimant is disqualified for receiving unemployment benefit for the following periods :—

the 5th May 1958 to the 7th July 1958, and

the 12th December 1958 to the 14th January 1959.

2. The claimant is a young lady of 18 who was represented by her father at the oral hearings of her appeal held before me on the 12th May 1959 and the 16th September 1959. There are two questions at issue :—

(1) whether the claimant is disqualified for receiving unemployment

benefit from the 5th May 1958 to the 7th July 1958, on the ground that that period is more than six months before the date on which the claim for unemployment benefit in respect of that period was made.

- (2) whether the claimant is disqualified for receiving unemployment benefit from the 12th December 1958 to the 14th January 1959, on the ground that she failed to make the claim within the prescribed time and has not proved that there was good cause for the lateness of her claim.

3. It is agreed that a claim for unemployment benefit on a form approved by the Minister for that purpose was not made until the claimant completed a form U.I. 591 on the 15th January 1959, but the claimant contends that a letter dated the 5th May 1958 written on her behalf by her father to the "Ministry of National Insurance and Labour" at B. is a claim for unemployment benefit, or alternatively that that letter together with later letters written by her father constitute a claim for unemployment benefit, on and from the 5th May 1958.

4. When considering this appeal it is necessary to fix in one's mind at the start that, before unemployment benefit is payable to any person, that person must not only qualify for the benefit by having paid the necessary number of contributions and fulfilled the necessary conditions (such as being capable of and available for employment) but also—and this is important in the present case—must have made a claim for unemployment benefit in writing. This insistence upon writing is understandable. Much depends upon the date on which a claim is made and it is necessary for obvious reasons that a claim should be stated with precision and in a form capable of being recorded. In pursuance of this purpose, section 28(1) of the National Insurance Act, 1946, enacts that (subject to certain provisions which do not now matter)

"it shall be a condition of any person's right to any benefit that he makes a claim therefor in the prescribed manner."

The manner of making a claim is prescribed in regulation 2(1) of the National Insurance (Claims and Payments) Regulations, 1948 [S.I. 1948 No. 1041] thus :—

"Every claim for benefit shall be made in writing to the Minister on the form approved by the Minister for the purpose of the benefit for which the claim is made, or in such other manner, being in writing, as the Minister may accept as sufficient in the circumstances of any particular case or class of cases."

5. It was agreed in the present case that no claim on a form approved by the Minister was made until the 15th January 1959 and I therefore adjourned the hearing on the 12th May 1959 in order that the Minister might say whether or not he accepted the letter or letters of the claimant's father as a claim in writing for unemployment benefit sufficient in the circumstances of this case.

6. On the 16th July 1959 the Minister ruled that, insofar as any of the letters might be held to constitute a claim, they were accepted as having been made in a sufficient manner. He stated in his ruling that he took the view that it was for him to decide whether any document could be accepted under regulation 2(1) quoted above as being in a sufficient manner in the circumstances of any particular case where that document, although alleged to be a claim, was not on a form approved for the purpose but

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was in writing ; but that it was for the independent statutory authorities (and not for him) to decide whether the document constituted a claim for benefit.

7. In my judgment the view expressed by the Minister sets out correctly the law on the subject. Since the Minister has ruled that the letters are documents in a form acceptable to him, it is now for me to decide whether they amount to a claim for unemployment benefit on and from the 5th May 1958 or any other date.

8. I have come to the conclusion that neither any single letter, nor the correspondence as a whole, amounts to a claim for unemployment benefit.

“NOTE: The rest of the decision in which the Commissioner dealt in detail with the facts of the case and held that the above-mentioned letters did not constitute a claim for unemployment benefit but merely a claim for credits, is not printed as not being of general application.”
