Case law on gaps

***Raulin v Minster van onderwijs en Wetenschappen* C 357/89**

Zero hours contract worker still worker despite long gaps in actual work (actually 60 hours all in 3 weeks but considered worker from March to November – see paragraph 3).

**CIS/1934/2006**

Gap between ending work and claiming JSA not fatal to reliance on regulation 5 (2) (b) (retaining worker’s status) – see paragraph 13 – all depends on circumstances, and reasons. However, in this case, a gap of two years too long.

**R(IS)10/08**

10 weeks’ work over three to four years not enough to give status as worker or retained worker.

**CIS/4304/2007**

Change in reasons for not working (change from one “head” of regulation 6 (2) to another). Worked, then involuntarily unemployed, then ill. Retained worker’s status throughout.

**[2009] UKUT 11 (AAC)**

Gap of nearly three months between working and claiming not fatal.

***N E v SSWP* [2009] UKUT 38 (AAC)**

Agency workers with short gaps remain workers. Paragraph 9

“I do not accept Mr Edward’s submission that agency work is by its nature ancillary and insufficient to confer on a claimant the status of worker. Although agency work is often temporary and for short periods,, it is not necessarily so. However, I do accept that a distinction is to be drawn between temporary employment for a short period and indefinite employment that has been curtailed prematurely. Where work is undertaken for what is expected from the outset to be for a very short period and is known to be temporary, the person concerned is obliged to keep looking for work and often he or she cannot realistically be said to have become established in work and to have ceased to be a workseeker. It does not follow that all agency workers always remain workseekers. Where short periods of temporary work are separated by longer periods of no work, it will often be appropriate to regard the person concerned as having become a worker rather than a workseeker. There will be cases where work that is temporary is nonetheless for a prolonged period or where there is a high likelihood of further work being obtained and, in particular, many agency workers will be able to show that the agency has regularly found them work albeit for short periods and they have, for practical purposes, become established members of the national workforce.”

***SSWP v M K* [2013] UKUT 0163 (AAC)**

Gap from February to May between leaving work and claiming JSA not necessarily fatal.

***SSWP v MM* (IS) [2015] UKUT 0128 (AAC)**

Five weeks’ delay between ending work and claiming not fatal.