

SOCIAL SECURITY ACTS 1975 TO 1985

CLAIM FOR UNEMPLOYMENT BENEFIT

DECISION OF THE SOCIAL SECURITY COMMISSIONER

Name: Julia Rose Galliers (Mrs)

Appeal Tribunal: Coventry & District

Case No: 73/5

[ORAL HEARING]

1. My decision is

- (1) unemployment benefit is payable for Monday 9 April 1984, Tuesday 10 April 1984 and Thursday 12 April 1984.
- (2) the claimant is not entitled to unemployment benefit for Monday 2 April 1984, Tuesday 3 April 1984 or Thursday 5 April 1984 because those three days are the first 3 days of a period of interruption of employment, in terms of sections 14(3) and 17(1)(b) of the Social Security Act 1975.
- (3) unemployment benefit is not payable for Friday 30 March 1984, Saturday 31 March 1984, Friday 6 April 1984, Saturday 7 April 1984, Friday 13 April 1984 and Saturday 14 April because those days are not and cannot be treated as days of unemployment (Social Security Act 1975 section 17(1)(b) and regulations 6 and 19 of the Social Security (Unemployment Sickness and Invalidity Benefit) Regulations 1983).
- (4) the forward disallowance imposed by an adjudication officer's decision dated 22 May 1984 and confirmed by a social security appeal tribunal on 21 August 1984 is discharged and shall no longer have effect.
- (5) if any further claim is made in respect of a Friday or Saturday falling in the period 16 April 1984 to 27 June 1984 (both dates included) and on that day the grounds of this decision have not ceased to exist, this decision is to be treated as a disallowance of that claim (Social Security (Claims and Payments) Regulations 1979 regulation 12(5)).

2. I held an oral hearing of this appeal. The claimant, who appeared and gave evidence, was represented by Mr B. Hunt, Caseworker with Coventry Citizens' Advice Bureau. The adjudication officer was represented by Mr G. Berry of the Solicitor's Office, Department of Health and Social Security.

3. On 22 May 1984 an adjudication officer decided that unemployment benefit was not payable for 30,31/3/84, 2,3,5,6,7,9,10,12,13,14/4/84 on the ground that the claimant regularly worked for the same number of days in a week

for the same employer or group of employers and she was employed to the full extent normal in her case in the week in which these days fell. In other words, he applied the "full extent normal" rule set out in regulation 7(1)(e) and (2) of the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations 1983 by virtue of which those days are not to be treated, in cases where the rule applies, as days of unemployment. He imposed a forward disallowance in respect of Mondays, Tuesdays, Thursdays, Fridays and Saturdays falling in the period 16 April 1984 to 20 May 1985 inclusive. This decision was confirmed by a majority decision of a social security appeal tribunal on 21 August 1984 and the claimant has appealed to the Commissioner.

4. The claimant gave evidence before me, which I entirely accept. She impressed me as an exceptionally intelligent, helpful and reliable witness.

5. The facts, so far as relevant, are as follows. By September 1975 the claimant was employed as a full time lecturer in biology at Henley College for Further Education. She worked 5 days a week, Monday to Friday inclusive. This employment continued until June 1979 when she resigned her employment, there being no creche facilities at the College, in order to have her first child, who was born in September 1979. She returned to part time work in January 1980. She would have liked to obtain full time work but could only obtain part time work. She then took a TOPS course in computer science, which lasted from April to June 1981. This was a complete change of direction for her. On finishing the course she applied for full time programming work (which was the purpose of taking the course) but was unable to obtain it. She decided to go back into teaching. From September 1981 she obtained part time work at Coventry Technical College, working 3 days a week, Mondays, Wednesdays and Thursdays in each week. In 1982, she obtained work at Tile Hill College, also under the Coventry Education Authority. Taking the two jobs and two contracts together she sometimes worked 4 days a week and sometimes 3. She was employed in each of the 3 teaching terms, having a separate contract for each term.

6. In April 1982 the claimant stopped work for one term to have her second child. She started work again in September 1982. The term starting September 1982 she lectured in computer science 3 days a week at Coventry Technical, then from January to June 1983 she lectured for 4 days a week at Coventry Technical and Tile Hill combined. Each of these days, she lectured for 3 hours. She had individual contracts. The days varied a lot. Fresh contracts were given for each term.

7. From September 1983 the claimant worked for a 5th day at Hereward College, unpaid, this was a residential college. The work was mainly research though she might assist one particular student in his work. The research was for a development project, in an area of work in which she wished to specialise. The position in the January 1984 term was the same as in the September 1983 term. But from 7 March 1984 she started getting paid for the one day a week (Wednesdays) that she worked at Hereward College. Her contract with Tile Hill was not renewed in January 1984, after the existing contract had ended in December 1983. Her contract with Coventry Technical College was renewed and she worked with them on Mondays, Tuesdays and Thursdays until 29 March 1984. Her contract with Coventry Technical College was not then renewed.

8. From 30 March 1984 the claimant worked only one day a week namely on Wednesdays at Hereward College. The contract for that work, which was for 3 hours per week at £7.58 an hour, ended on Wednesday 27 June 1984, which

was the last day on which she worked at lecturing.

9. The claimant had taken a part time 2 years course at Birmingham Polytechnic in 1981 in order to obtain a Certificate for Teachers in Computer Science, which she duly obtained. Hereward College had links with the University of Warwick. She applied for a full time Masters' course there. Her application was made in November 1983. It was accepted in April 1984. The University of Warwick, Senior Lecturer in Psychology and MSc Course Director has confirmed that the decisive factor in her gaining a place on the Cognition, Computing and Psychology MSc Course was that she was employed in an area related to the contents of the course just prior to her application. This is a reference to the claimant's employment at Hereward College.

10. The claimant has never worked on Saturdays and it was not in dispute before me that Fridays were, by the commencement of the period to which this appeal relates, also a "normal idle day" in terms of section 17(1)(b) of the Social Security Act 1975.

11. It is clear from the evidence given before me that the claimant's normal pattern of work in every week in which days fell within the period 30 March 1984 to 14 April 1984 and, indeed, right up to the end of 27 June 1984, was to work a 3 day or 4 day week. Accordingly, she was not working to the full extent normal in her case for any of the weeks within the period in issue. She was only working one day a week, namely Wednesdays. It follows that regulation 7(1)(e) of the Unemployment Sickness and Invalidity Benefit Regulations does not operate to disentitle the claimant to unemployment benefit. This was, very properly, conceded by Mr Berry, on behalf of the adjudication officer, when he had heard the evidence given before me.

12. The claimant is accordingly entitled to unemployment benefit except in respect of her "normal idle days" in terms of section 17(1)(b) of the Social Security Act 1975. Throughout the period 7 March 1984 to 27 June 1984 (inclusive) the claimant was employed under a contract which continued to exist, without suspension, termination, or deemed suspension or termination. Her normal idle days were Fridays and Saturdays. Accordingly, the claimant cannot obtain benefit for those days. But she is entitled to benefit for Mondays, Tuesdays and Thursdays. (For Wednesday, she has been held by a separate adjudication officer's decision, which is not the subject of any appeal, not to be entitled to unemployment benefit because she was earning more than £2 a day). There is one exception. Benefit is not payable for the first 3 "waiting days". My decision on these points is set out in paragraphs 1(1)(2) and (3) above.

13. The forward disallowance imposed by the adjudication officer and affirmed by the social security appeal tribunal is accordingly discharged. There should be a forward disallowance up to and including 27 June 1984 (when the claimant's contract of employment ended), in respect of Fridays and Saturdays in weeks commencing 16 April 1984. My decision on these points is set out in paragraphs 1(4) and (5) above.

14. As Mr Berry properly pointed out, it will now be open for the claimant to make a late claim for unemployment benefit for all Mondays, Tuesdays and Thursdays in the period 16 April 1984 to 27 June 1984. (Her full time course did not start until September 1984 and I am not in any case concerned with any date after 27 June 1984). Since the claimant, up to the date

of my decision, has been subject to a forward disallowance in respect of those days, she clearly has good cause for late claim if such claim is made promptly after receipt of my decision.

(Signed): V G H Hallett
Commissioner

Date: 28 April 1986