

SOCIAL SECURITY ACTS 1975 TO 1985

CLAIM FOR UNEMPLOYMENT BENEFIT

DECISION OF THE SOCIAL SECURITY COMMISSIONER

Name:

Local Tribunal:

Case No:

1. My decision is that the claimant is not precluded from receiving unemployment benefit for 1 December 1983 because of the provisions of section 17(1)(b) of the Social Security Act 1975 or the provisions of regulation 7(1)(e) of the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations 1983.

2. The relevant statutory provisions relating to the present appeal are set forth in section 17(1)(b) of the 1975 Act mentioned above and section 7(1)(e) and (2) of the regulations mentioned above. These statutory provisions are in the following terms:-

"17.--(1)

(b) where a person is an employed earner and his employment as such has not been terminated, then in any week a day on, which in the normal course that person would not work in that employment or in any other employed earner's employment shall not be treated as a day of unemployment unless each other day in that week (other than the day referred to in paragraph (e) below) on which in the normal course he would so work is a day of interruption of employment;

7.--(1)(e) subject to paragraph (2), a day shall not be treated as a day of unemployment if on that day a person does no work and is a person who does not ordinarily work on every day in a week (exclusive of Sunday or the day substituted for it by regulation 4) but who is, in the week in which the said day occurs, employed to the full extent normal in his case, and in the application of this sub-paragraph to any person no account shall be taken, in determining either the number of days in a week on which he ordinarily works or the full extent of employment in a week which is normal in his case, of any period of short-time working due to adverse industrial conditions;

(2)/

(2) Paragraph 1(e) shall not apply to a person unless -

- (a) there is a recognised or customary working week in connection with his employment; or
- (b) he regularly works for the same number of days in a week for the same employer or group of employers."

3. The claimant at the time under consideration was 24 years of age and unemployed. He was given employment on a part-time basis as a labourer with the Stirling District Council under the Manpower Services Scheme on what appears to have been called the Springkerse Project. His said employment commenced on 8 August 1983 and it involved working Mondays, Tuesdays and Wednesdays of each week.

4. The local insurance officer decided that unemployment benefit was not payable to the claimant for 1 December 1983 because of the provisions of section 17(1)(b) of the said 1975 Act mentioned above. The local insurance officer also made a forward disallowance in respect of the period from 2 December 1983 to 20 December 1984 because of the provisions of regulation 12(5) of the Social Security (Claims and Payments) Regulations 1975. The claimant appealed against that decision, but a local tribunal disallowed his appeal. Thereafter the claimant applied for leave to appeal to a Commissioner from the tribunal's decision, and the chairman of the tribunal granted the said application. I am now concerned with the appeal.

5. I do not have before me details of the claimant's employment record before he commenced the employment under consideration nor how long the said employment lasted. I have, however, dealt with a number of cases dealing with claimants who have been engaged in part-time employment under the Manpower Services Scheme. My understanding relating to claimants such as the present claimant is that the employment of the type in which the present claimant was engaged was that of a part-time nature and of a stop-gap type meant to last only for a short period while the claimant sought full-time employment. It will be noted that the claimant had only worked for a few months before it was decided by the local insurance officer that unemployment benefit was not payable to him in respect of 1 December 1983. Having regard to the principles which have been laid down by Commissioners in this type of case and having regard to what was stated by a Tribunal of Commissioners in the recent case CU/255/1984 (not yet reported) and also in the recent case of Reilly in the Court of Appeal in England I am of the opinion that the claimant was not precluded because of the statutory provisions mentioned above from receiving unemployment benefit for 1 December 1983. I have therefore reached the decision set forth in paragraph 1 above. Having reached that decision a forward disallowance is not appropriate.

6. The claimant's appeal is allowed.

(signed) Douglas Reith
Commissioner
Date: 19 November 1985