
Good cause for late claim—advice misunderstood

Claimant who was a self-employed person delayed making a claim for sickness benefit because he did not know that he was entitled to benefit. He had misunderstood the answers to his inquiries when previously making a claim for unemployment benefit, to which he was not entitled, and thought he was not entitled to any benefit.

Held that the claimant had shown good cause for his delay in claiming. His delay was due to a genuinely held belief based on proper inquiries.

1. My decision is that the claimant is not disqualified for receiving sickness benefit from the 2nd December to the 24th December, 1953 both days included

2. The claimant became incapable of work by reason of injury to his back from and including the 2nd December, 1953. He gave no notice of incapacity and made no claim to sickness benefit until the 29th December, 1953, when he wrote a letter to the local insurance office asking about credits, in which he gave notice of his incapacity and which has been accepted as being also a claim for sickness benefit. He had previously made a claim for sickness benefit under the National Insurance Act, 1946 in January, 1952 (the fact that he was then an employed person and is now self-employed does not affect the matter) and therefore the prescribed time within which he should have claimed sickness benefit, in respect of the incapacity arising from the injury to his back, was three days from the day in respect of which the claim was made.

3. He contends, however, that he has good cause for failing to claim before the 29th December, 1953. His point is that towards the end of 1952, when he was self-employed as a commercial traveller, during a workless spell he had sought unemployment benefit at an employment exchange and also a supplementation of his unemployment benefit from the National Assistance Board. It so happened that, although he was then self-employed, he was entitled to some benefit as a result of contributions formerly paid when he was an employed person, but he was told by officials both at the employment exchange and at the office of the National Assistance Board that, if it had not been for these past contributions, he would not have been entitled to benefit as a self-employed person. The officials were evidently referring to unemployment benefit, and their statements understood in that sense were correct, for a self-employed person is not as such entitled to unemployment benefit, but the claimant seems to have misunderstood their statements. He took them as meaning that, as a self-employed person, he was not entitled to *any* benefit. He thus got the erroneous idea firmly into his head, as a result of what he supposed he had been told by officials, that he was not entitled to sickness benefit. He therefore made no claim until his ideas were corrected by a hospital almoner whose advice prompted his letter of the 29th December, 1953.

4. On the whole I think the claimant can properly be held to have shown good cause for his delay in giving notice of incapacity and making a claim. It is true that he did not know what his rights were, but his ignorance arose not from a failure to make proper inquiry or from a lack of proper diligence on his part, but from a misunderstanding of the answers to inquiries on a related topic which he had formerly made. His delay was due to a genuinely held belief, based on the inquiries which he had formerly made, that he was not entitled as a self-employed person to sickness benefit. His belief was mistaken, but I hold that it provides him with good cause for his delay in claiming.

5. The claimant's appeal is allowed.
