
Good cause for delay in claiming—claimant not fully advised at employment exchange

An ex-inspector of police called at the employment exchange seeking further employment on the day after his retirement following 38 years' service in the police force. He was not advised to sign the unemployed register or asked if he wanted to claim unemployment benefit. He did not claim benefit until nearly four months later, though he had paid further visits to the exchange about once a month seeking employment. He gave "ignorance" as the reason for delay in claiming.

Held that the claimant had shown good cause for the delay in making his claim. He had made enquiry, though not specifically about unemployment benefit, of someone competent to give him information and advice, and had been insufficiently advised.

1. My decision is that the claimant is not disqualified for receiving unemployment benefit from the 25th July 1958 to the 17th November 1958 (both dates included).

2. The question to be determined in this the appeal of the claimant is whether he has shown good cause for not making his claim for unemployment benefit within the prescribed time. On this question depends his right to receive unemployment benefit in respect of the period indicated in paragraph one hereof. The claim falls to be considered under regulation 11 of, and the Second Schedule to, the National Insurance (Claims and Payments) Regulations, 1948 [S.I. 1948 No. 1041 as amended by S.I. 1952 No. 1207].

3. The claimant is an ex-inspector of the Metropolitan Police Force from which he was retired on pension on the 24th July 1958, that being the day on which he attained sixty years of age, after thirty-eight years' service in the force. Being desirous of further employment and wanting to know whether

his card should be stamped he went, on the following day, to his local office of the Ministry of Pensions and National Insurance and took with him his national insurance card. At the local office he was advised to go to his local employment exchange. He immediately proceeded to that employment exchange and, when he got there, reported his presence at the counter. The claimant told a clerk there that he had "finished with the Force" and explained that he wanted a job with residential qualifications, because he had received a notice to quit the flat in which he and his family were then residing. The claimant was told that there was nothing of the kind suitable, whereupon he said "what do I do now?"

4. The clerk advised him that he had more chance of getting a job under his own organisation (the Metropolitan Police Welfare Bureau) than by relying on the employment exchange. Apart from a reply by the claimant that he would endeavour to get employment that was suitable for him, the conversation became general. At no time, however, did the clerk advise the claimant to sign the unemployed register, nor did he ask him whether he wanted to claim unemployment benefit. That was as far as matters went that day, the 25th July 1958, but the claimant went back to that employment exchange about once a month afterwards to see if there was any suitable employment for him. Meanwhile he registered with the Metropolitan Police Welfare Bureau and also made efforts to secure a situation by answering advertisements and making personal calls on prospective employers. Eventually, through the good offices of the bureau he obtained a position as a resident caretaker of a merchant bank. As he was expected to take up the appointment on the 21st November 1958 he called again at the employment exchange on or about the 18th or 19th November 1958 and took with him his national insurance card and asked what he was to do with it. In reply the clerk said "have you been next door?" by which he meant to ask the claimant if he had signed the unemployed register. When the claimant asked the clerk what he meant the clerk then explained to the claimant that he should have been signing on (that is, signing the unemployed register) during the interim period between leaving the force and getting the new job. The claimant to this replied "why did not someone tell me to sign on?" The clerk said "you should have done so." As a result of this conversation and on the advice of the clerk the claimant was directed to the department of the employment exchange where he could make a deferred claim for unemployment benefit in respect of the period during which he was unemployed. On the form U.I.591, on which the delayed claim was made, the claimant stated the reason for the delay in making the claim to be as follows :— "I can only put it down to ignorance on my part respecting unemployment benefit."

5. The local insurance officer disallowed the claim, on the ground that the claimant had failed to make his claim within the time limit and had not proved that there was good cause for failure to make the claim before the 18th November 1958.

6. At the hearing of his appeal before the local tribunal the claimant said that he was not told to "sign on" when he called at the office of the Ministry of Labour and National Service and that he was "aided and abetted in that ignorance by an official of the Ministry of Labour." The local insurance officer submitted to the tribunal that the claimant simply called to make an inquiry and not to "sign on." The tribunal found that, unfortunately, the claimant had pleaded ignorance of the regulations and held that no good cause had been established for failure to make the claim before the 18th

November 1958. Accordingly the tribunal upheld the decision of the local insurance officer and dismissed the claimant's appeal therefrom.

7. At the hearing of his appeal before me the claimant admitted that he had not given a thought to the question of claiming unemployment benefit, until his attention was called to that matter, when the clerk advised him that he should have made a claim. That was on the 18th or 19th November 1958 when he inquired about the stamping of his national insurance card in respect of the period between leaving the force and going into his new situation at the bank. He said that he had not seen any notice displayed warning him that he should sign the unemployed register. He submitted that there was nothing more that he could do than to go to the employment exchange and explain the facts of his case, which he had done when first he called there on the 25th July 1958.

8. At my request the insurance officer who appeared before me has made inquiries concerning the information that a caller at an employment exchange would be given in regard to claiming unemployment benefit where prima facie the purpose of the call is to inquire about employment matters. The insurance officer has reported to me that the current practice is that interviewing officers are told to deal as follows with persons who are either only seeking information or not actually registered for employment:—"If the inquirer is unemployed he should always be asked if he wishes to claim benefit or, in the case of a non-claimant, whether he wishes to apply for N.I. contributions to be credited to him. If so, he should be referred, on completion of the interview to the claims section . . ."

9. The insurance officer now submits—and very fairly and properly so in my view—that it seems evident that the interviewing officer (that is to say the clerk of whom the claimant has made mention) did not ask the claimant if he wished to claim unemployment benefit. In these circumstances the insurance officer submits that the Commissioner may therefore consider that the claimant in going to the employment exchange with his national insurance card and his papers (having been directed there by the local insurance office to which he applied in the first instance) had done all that could reasonably be expected of him at that stage and that his failure to claim unemployment benefit at his first interview was due to his not being given the information that ought to have been conveyed to him. The insurance officer accepts it as a fact that the claimant first visited the employment exchange on Friday the 25th July 1958.

10. I understand that no permanent record is kept of inquiries regarding prospects of employment and, therefore, I have not thought fit to ask the clerk in question to comment upon the evidence of the claimant. I think that with the many duties that such an officer has to carry out in the course of his day's work that it would not now be fair to expect him to remember the claimant's case and, as I do not doubt that the claimant is a witness of truth I am satisfied to accept all that he has said as being substantially accurate. I do not doubt that, in general, great care is taken in informing insured contributors of their rights and obligations under the Act and regulations made thereunder, but, in this case, I am satisfied that the claimant received no such information. I hasten to add that I lay no blame on the clerk who interviewed the claimant.

11. It is understandable that with the large number of persons interviewed in the course of a day's work it is possible to overlook the need to make

someone fully acquainted with his possible rights under the Act, and I do not overlook the fact that the claimant did not make any specific inquiry about the matter of making a claim for unemployment benefit.

12. The claimant has frankly admitted his ignorance of his possible right to unemployment benefit, but the question here does not depend upon whether or not he was ignorant of his rights under the Act but whether he has taken reasonable steps to ascertain them. I think that he did make inquiries, albeit that such inquiries were only directed to securing suitable employment. He received no information at the employment exchange—until it was too late—to call his attention to his title to unemployment benefit. I do not doubt that had his attention been called to that matter he would have signed the unemployed register at once and made a claim for benefit. Indeed had he signed the unemployed register he would have been given a card on which his attention to the matter of claiming benefit would have been directed.

13. This, in my view, is a case in which a person has made inquiry (prima facie as to how to get work) of someone competent to give him information and advice and has been insufficiently advised. I do not think that it is remarkable that a man, who for some thirty-eight years had been in secure employment which carried a pension at the end of it, should have failed to appreciate that he was entitled to unemployment benefit when he retired from that employment on pension. He was content to go to the employment exchange and I do not doubt that he should have been advised fully as to his position, even though he did not inquire specifically about unemployment benefit.

14. In Decision 3619/36 (not reported), which was a decision given by the Umpire under the Unemployment Insurance Acts (now repealed) and which referred to a claim for ante-dating, the Umpire said “it is no part of the duty of the officials at the employment exchange to instruct insured contributors to make claims or applications which they have shown no inclination or desire to make, but in cases in which the advice of officials is sought, and in cases in which the officials appreciate that the claimant’s endeavours to carry out the requirements of the Act are misdirected, they give assistance and advice.” I respectfully agree with what the Umpire said and I do not doubt that this advice has influenced the very proper practice of the employment exchange as indicated by the insurance officer to whose submission I have had regard.

15. For the reasons which I have stated, I hold that the claimant has shown good cause for not making his claim within the prescribed time and, therefore, he is not disqualified for receiving unemployment benefit in respect of the period for which he has claimed it.

16. The appeal of the claimant is allowed.
