

UNEMPLOYMENT BENEFIT

Unemployment benefit—delayed claim—national insurance card not available

The claimant's employment ended on 31.12.73. He expected to start other employment on 1.1.74 but it fell through. At the beginning of January he was told at the local citizens' advice bureau to take his "NHI card", which he had not yet received from his employer, to the local unemployment office. There was no unreasonable delay between his receipt of the card and 23.1.74 when he made a delayed claim for unemployment benefit.

Held that:—

1. It was reasonable for the claimant to seek advice at a citizens' advice bureau and reasonable for him to have waited until he received his national insurance card before attending the employment exchange.

2. His conduct came within the accepted definition of "good cause" and he was not disqualified for the lateness of his claim (para 4).

1. My decision is that the claimant is not disqualified for receiving unemployment benefit for the inclusive period 1st to 22nd January 1974 because he has proved that there was good cause for failure to claim before 23rd January 1974 as provided by regulation 11 of and Schedule 2 to the National Insurance (Claims and Payments) Regulations 1971 [S.I. 1971 No. 707].

2. The claimant's employment terminated on 31st December 1973. He expected to start other employment on 1st January 1974 but it fell through. Instead of going to an employment exchange, he visited the Enfield Citizens' Advice Bureau at the beginning of January and was told to take his "NHI card" to the local unemployment office. As far as I am informed, there was no unreasonable delay after he received his national insurance card from his former employers until he made a delayed claim for unemployment benefit on 23rd January 1974.

3. The insurance officer has submitted that good cause has not been proved for the delayed claim because it is well established that a misconception that benefit cannot be claimed without production of a national insurance card does not constitute good cause for delay in claiming. It is correct that the Commissioner has decided that such a misconception does not of itself prove good cause for delay. The insurance officer has continued that a particular claimant may be able to show that there were exceptional circumstances in which it can be said that it was reasonable for him to have held such a mistaken belief: that also is correct. It is submitted in the present case that the claimant, on being advised to take his national insurance card to the employment exchange, and not having his card, could reasonably have been expected to make enquiries at the employment exchange as to what he should do in the circumstances rather than assume that it was useless to attend the exchange without his card. The insurance officer does not therefore support this appeal.

4. I do not accept the submission that, not having his national insurance card, the claimant acted unreasonably in not attending at an employment exchange to enquire what he should do. It was reasonable for him to have sought advice at a citizens' advice bureau and the advice he should have been given was simply to enquire at an employment exchange. Having been told to take his card to an employment exchange it was perfectly reasonable for him to have waited until he received his national insurance card from his former employers before attending at the employment

exchange. He might, as an unusually cautious person, have enquired at an employment exchange but, in my opinion, his conduct comes well within the accepted definition of "good cause" in Decision C.S. 371/49 (K.L.) as "some fact which, having regard to all the circumstances (including the claimant's state of health and the information which he had received and that which he might have obtained) would probably have caused a reasonable person of his age and experience to act (or fail to act) as the claimant did."

5. Evidently the information furnished to citizens' advice bureau is that if an enquiry is made there as to unemployment benefit, a citizen should be advised to take his national insurance card to an employment exchange. I assume that the advice given to the claimant was in accordance with information issued by the Department.

Regulation 5(2) of the Claims and Payments Regulations (above) provides that, subject to the directions given by the Secretary of State in any particular case or class of cases, every person who makes a claim for unemployment benefit shall lodge his insurance card at the employment exchange at which the claim is made. There is a proviso that the determining authority may dispense with the lodging of the insurance card if satisfied that the claimant is unable or has omitted for good cause to lodge his card. It might be this requirement which leads to the misconception, which seems to be fairly prevalent, and recurs from time to time in appeals to the Commissioner. The misconception is usually held by those who are not regular claimants on the National Insurance Fund. I suggest for consideration whether greater attention should not be drawn to the fact that it is not necessary to lodge a national insurance card at an employment exchange before benefit may be claimed.

6. The claimant's appeal is allowed.

(Signed) J. S. Watson
Commissioner
