

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

In the Matter of:

RAY LEMBO, JR.
(Claimant)

DEPARTMENT OF HUMAN
RESOURCES DEVELOPMENT

PRECEDENT
BENEFIT DECISION
No. P-B-111
Case No. 71-2735

The Department appealed from Referee's Decision No. BK-6506 which held the claimant could not establish a valid claim for benefits under section 631 of the California Unemployment Insurance Code. Written argument has been submitted by the Department. No argument has been received from the claimant.

STATEMENT OF FACTS

Effective August 16, 1970 the claimant, age 18, filed an intrastate claim for unemployment compensation benefits. The base period for such claim was the four calendar quarters from April 1, 1969 through March 31, 1970. The only reported wages for this period were \$1,053.04 earnings through employment with Swiss Cleaners and Laundry of Northridge, California. This employing unit is a partnership between the claimant's father and a corporation owned by his uncle.

REASONS FOR DECISION

Section 1281(a) of the California Unemployment Insurance Code provides that a claimant may not establish a valid claim or a benefit year as to which any benefits are payable unless he has during his base period been paid wages for employment by employers of not less than \$720. (Emphasis added)

Section 631 of the code provides that "employment" does not include the services performed by a child under the age of 21 in the employ of his father or mother. Regulation 631-1(e) of Title 22, California Administrative Code, is intended to implement and explain section 631 of the code, and it reads:

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"Services performed in the employ of a partnership by a spouse, father, mother, or child under the age of 21 of a partner are excluded when such services would be excluded if performed for each partner individually."

Where a minor works for a partnership, in order for his services to be considered exempt under section 631 of the code, they must be exempt as to all partners in the employing unit. In the instant case, were the claimant to have worked only for his uncle's corporation, the services rendered would be considered as covered employment. Thus the claimant's services as to one member of the partnership, consisting of the father and the uncle's corporation, are not exempt. Accordingly, his entire services for the partnership were performed in employment covered under the Unemployment Insurance Code.

We therefore find that the claimant has rendered services in employment and the earnings received therefrom may be used to establish a claim for benefits. The claimant, having been paid wages for employment by employers of more than \$720 in his base period, has a valid claim.

DECISION

The decision of the referee is reversed. The claim for unemployment insurance benefits filed by the claimant effective August 16, 1970 is valid.

Sacramento, California, July 20, 1971.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

ROBERT W. SIGG, Chairman

CLAUDE MINARD

JOHN B. WEISS

DON BLEWETT

CARL A. BRITSCHGI