

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

In the Matter of:

DARWIN C. HALL
(Claimant)

PRECEDENT
BENEFIT DECISION
No. P-B-135
Case No. 71-3899

The claimant appealed from Referee's Decision No. ONT-5772 which held that he was ineligible for benefits under section 1253(c) of the Unemployment Insurance Code beginning December 20, 1970 on the ground that he was not available for work.

STATEMENT OF FACTS

By trade the claimant is a welder's helper. He has been a member of Steamfitters and Pipefitters Local No. 250 for four years. This union controls the majority of the work in the claimant's trade in the Los Angeles area. His union rate is \$5.20 per hour. The claimant is also a student attending the University of Washington in Seattle, Washington. After the close of the Autumn quarter at the university, he returned to Los Angeles on December 15, 1970. On December 16, 1970 he registered on the union out-of-work list. He was present each day at the union hall for roll call. A member's presence is required in the hall in order to be dispatched through the union. He left Los Angeles for Seattle in the beginning of January 1971. The longest employment he could have obtained would have been approximately two weeks.

The claimant testified that his relatively short stay in the Los Angeles area would not militate against dispatch by the union if jobs were available. In 1970, while he was a student at the University of California in Santa Barbara, he worked for the Wonderly Construction Company from March 24, 1970 until April 3, 1970 when he was laid off in a reduction in force. The nature of his work does not call for a permanent job for the majority of the jobs are of relatively short duration. He submitted a list of prior employers showing that he had had four employers in a span of two and one-half months. He did not claim benefits after he returned to Washington.

The Department made an inquiry to the union business agent about the claimant's status. The Department was informed that the claimant was on the union out-of-work list but had not been dispatched because of his position on the list and the depressed labor market.

REASONS FOR DECISION

Section 1253(c) of the Unemployment Insurance Code provides that a claimant is eligible to receive benefits with respect to any week only if "he was able to work and available for work for that week."

We held in Appeals Board Decision No. P-B-17 that a claimant is available for work under section 1253(c) of the code if he is ready, willing and able to accept suitable employment in a labor market where there is an adequate demand for his services and he has not placed undue restrictions upon acceptable work.

Restrictions which have the effect of preventing a claimant from meeting the eligibility provisions of section 1253(c) include a restriction to work of a limited duration, irrespective of the reason for such limitation. This concept has been long established in this board's history.

We believe that a claimant whose primary consideration is the continuation of his college education, while obtaining work during vacation intervals is only a secondary one, does not meet the availability for work requirement of section 1253(c). On the other hand, a college student who expresses a willingness to forego school attendance if he is able to secure full-time employment is available for work.

This principle is exemplified in the cases from other jurisdictions we have examined. For example, the issue was stated succinctly by a Pennsylvania court as follows:

"In applying the tests of availability and ability where a student claimant is pursuing a full-time course in a high school, the following conditions should be considered: Whether or not the student has paid full tuition for the semester; whether or not the student follows a regular curriculum with every indication of intent to complete his studies; the total of his school hours and the time required for study and preparation after school hours;

whether or not his school hours can be readily changed to permit acceptance of employment; whether job opportunities during hours that the student is available for work are existent in the local labor market; whether the claimant's primary purpose was to seek an education, or to obtain employment necessary to meet family responsibilities; whether the claimant is considered a college student working, as in Douty, Jr., v. Bd. of Rev., 194 Pa. Super. 220, 166 A. 2d 65 (1960), aff'g Bd. of Rev. Dec. No. B-57325, or a working man going to college, as in Wiley v. Bd. of Rev., 195 Pa. Super. 256, 171 A. 2d 810 (1961), aff'g Bd. of Rev. Dec. No. B-59570."

In the present matter the claimant's paramount aim was to complete his college education. We cannot find that his search during the semester interlude establishes a genuine attachment to the labor market so that he could be found available for work and eligible for benefits under section 1253(c) of the code.

DECISION

The decision of the referee is affirmed. The claimant is ineligible for benefits under section 1253(c) of the code.

Sacramento, California, March 29, 1972.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

ROBERT W. SIGG, Chairman

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