

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

In the Matter of:

JOEY PITTMAN
(Claimant)

PRECEDENT
BENEFIT DECISION
NO. P-B-53
Case No. 69-2671

The claimant appealed from Referee's Decision No. LB-19539 which held him ineligible for unemployment benefits commencing April 27, 1969 under the provisions of section 1253(c) of the Unemployment Insurance Code on the ground that he was not available for work.

STATEMENT OF FACTS

The claimant who is eight years of age is attempting to establish himself in the entertainment field. He has an agent and is a member of the Screen Actors Guild.

He performed services on March 6, 1968 in a television commercial. For these services he received \$120. During 1968, in addition to the \$120 the claimant received for the services performed on March 6, he also received some \$3,937 for payment of reruns or reuse of films in which he had previously appeared. This year, as of May 19, 1969, he has received approximately \$1,950 in residuals. He has had no employment since March 6, 1968.

It is contended on behalf of the claimant that he has diligently sought work and is more than willing to accept employment as an actor in films or on television.

The issue presented for decision is whether this eight-year-old child is eligible for unemployment insurance benefits.

REASONS FOR DECISION

It should be stated at the outset that eligibility for unemployment benefits is not dependent upon the age of the claimant but is dependent on whether or not he meets all of the eligibility requirements of the Unemployment Insurance Code. One such requirement is found in section 1253(c) of the code which reads in part as follows:

"1253. An unemployed individual is eligible to receive unemployment compensation benefits with respect to any week only if . . .

* * *

"(c) He was . . . available for work for that week."

What constitutes availability for work is largely a question of fact. Each case must rest upon its own facts and no one prescribed set of rules can be compiled to cover every individual claim in every situation. However, it is generally accepted that in order to show that a claimant is available for work there must be a finding that the claimant is attached to a labor market where there is a reasonable demand for his services.

Certainly there is a labor market in the Southern California area for motion picture and television actors, and there is no question that the claimant is anxious to secure such employment. However, availability for work cannot be measured entirely by a person's willingness to work, although willingness to work is an indispensable factor in determining availability. The record in this case shows that the claimant has had but one day's work in over a year. This one day's employment in a 12-month period does not show, in our opinion, that there is a reasonable attachment of the claimant to the labor market which exists in the area.

We do not believe that residual payments in and of themselves establish an attachment to the current labor market. Although the claimant received considerable income during 1968 and the first part of 1969, this income was in the form of residual payments which, while constituting wages, did not constitute the payment for services currently being performed. It was payment for services previously rendered.

Accordingly, the claimant does not meet the eligibility requirements of 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 and benefits are denied commencing April 27, 1969.

Sacramento, California, September 30, 1969.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

ROBERT W. SIGG, Chairman

LOWELL NELSON

CLAUDE MINARD

JOHN B. WEISS

DON BLEWETT

