



COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF EMPLOYMENT AND TRAINING
BOARD OF REVIEW
Government Center
19 Staniford Street
Boston, MA 02114

Tel. 626-6400
Office Hours:
8:45 a.m. to 5:00 p.m.

DECISION OF BOARD OF REVIEW

In the matter of:

Appeal number:
BR-50694-EB-CTRM

EMPLOYEE APPELLANT

The Board of Review held a hearing in Boston, Massachusetts, on May 22, 1996, to take additional evidence in the above-cited case. The claimant was present and represented by counsel. The Board reviewed a transcript of the testimony presented at a hearing of the Commissioner's representative held on February 24, 1992.

On December 28, 1995, the Somerville Division of the District Court Department remanded this matter to the Board for further proceedings, after the claimant filed an appeal of the Board's decision, issued on June 23, 1993, which found:

After reviewing the record, the Board adopts the findings of fact made by the Commissioner as being supported by substantial evidence. The Board, however, modifies the Commissioner's decision for the following reasons:

The claimant furnished tangible evidence to the D.E.T. that he sought work with only one employer using one job search method during the week ending January 11, 1992. Although the claimant has a limited reading ability he had received the written instructions which outlined the E.U.C. work search requirements but he discarded it without making any attempt to have someone clarify the information. The Board finds in accordance with M.G.L.c. 151A, s. 30A(c) and P.L. 102-164 the claimant failed to engage in a systematic and sustained effort to obtain work for the week ending January 11, 1992.

The Board in effect affirms the Commissioner's decision but modifies it as to reason and the Section (sic) of the Laws. EUC benefits are denied for the week ending January 11, 1992 and

M.G.L.c. 151A, s. 30A(3)(c) Chapter 151A of the General Laws and Public Law 102-164, 10(d)(2) are pertinent and provide in part as follows:

Section 30A(1) As used in this section the following words and phrases shall, unless the context clearly require otherwise, have the following meanings: -

- (3)(c) An individual shall not be eligible to receive extended benefits with respect to any week of unemployment in his eligibility period: (1) during which such individual fails to accept any offer of suitable work, as defined in paragraph (m) of subsection (1), or fails to apply for any suitable work to which he was referred by the employment office; or (2) during which such individual fails to actively engage in seeking work, unless such individual is (i) before any court of the United States or any State pursuant to a lawfully issued summons to appear for jury duty or (ii) hospitalization for treatment of an emergency or life-threatening condition. The eligibility for extended benefits of an individual who is determined not to be actively engaged in seeking work in any week for the reasons specified in clauses (i) or (ii) shall be decided pursuant to subsection (b) of section twenty-four without regard to the disqualification provisions otherwise applicable under this section. For the purposes of this paragraph, an individual shall be treated as actively engaged in seeking work during any week if: (i) the individual has engaged in a systematic and sustained effort to obtain work during such week, and (ii) the individual provides tangible evidence to the employment office of such effort.

P.L. 102-164- TITLE I - EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM FEDERAL STATE-STATE AGREEMENTS.

(d) WEEKLY BENEFIT AMOUNT. - For purposes of any agreement under this Act. -

(2) the terms and conditions of the State Law which apply to claims for extended compensation and to the payment thereof shall apply to claims for emergency unemployment compensation and the payment thereof, except where inconsistent with the provisions of this Act or with the regulations or operating instructions of the Secretary promulgated to carry out this Act . . .

The Board makes the following findings of fact:

The claimant, a New Hampshire resident, filed an Interstate Claim for extended benefits available under the Emergency Unemployment Compensation (E.U.C.) Program, for the week ending December 5, 1991, after his claim for regular benefits available to him, were exhausted on September 7, 1991.

The claimant was paid extended benefits for the week ending December 7, 1991, through January 4, 1992.

The claimant returned a continued Interstate Claim Form (IB20-A) to the Interstate Department of the Department of Employment and Training on January 21, 1992. On the form he stated that for the week ending January 11, 1992, he contacted one place looking for work. In fact, for that week, he sought work at the following places:

Capital Fire Construction
Laudon, NH

Steve Cato Tire Company
Concord, NH

Tri-State Sprinkler
Manchester, NH

Capital Paint & Wallpaper
Concord, NH

In addition, on that form, the claimant also stated that for the week ending January 18, 1992, he contacted two places looking for work. In fact, for that week, he sought work at the following places:

Dartmouth - Hitchcock Medical Center
Lebanon, NH

Glen Cliff Home For The Elderly
Glen Cliff, NH

Engine House
Concord, NH

State of New Hampshire
Concord, NH

City of Concord
Concord, NH

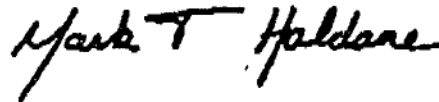
The claimant has a limited ability to read and write. All prior Interstate Claim Forms filed by the claimant had been prepared by the claimant's wife with his assistance and signature. Because his wife was not available, the claimant filed the form himself, without assistance, on January 21, 1992. He was not aware that all the places he contacted in a week must be reported on the form.

There is no evidence that the claimant was given notice of specific work search requirements under the E.U.C. program.

The Board concludes as follows:

At the Board's hearing, the claimant furnished tangible evidence that he sought work with at least four different employers on each of the weeks ending January 11, 1992, and January 18, 1992. In accordance with G.L.C. 151A, s. 30A(c), and P.L. 102-164, cited above, the claimant did engage in a systematic and sustained effort to obtain work during the week ending January 11, 1992.

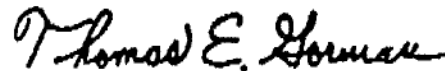
The Board modifies its original decision. The claimant is entitled to E.U.C. extended benefits for the week ending January 11, 1992, and successive weeks, if otherwise eligible.



Mark T. Haldane
Chairman

BOSTON, MASSACHUSETTS
DATE OF MAILING -

MAY 31 1996



Thomas E. Gorman
Member



Kevin P. Foley
Member

ANY FURTHER APPEAL WOULD BE TO A MASSACHUSETTS DISTRICT COURT
(See Section 42, Chapter 151A, General Laws Enclosed)

LAST DAY - JUL -1 1996

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