

A.D. No. B88-05151-108575W

S.S. No. ~~XXXXXXXXXX~~

B.O. No. 56

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM

3.
WSR

GERALD W. MITCHELL,
Claimant/Appellant,

v

BOC CAR ASSEMBLY,
Employer/Appellee,

and

MICHIGAN EMPLOYMENT SECURITY COMMISSION,
Appellee.

Case No. 89-63386-AE

HON. THOMAS L. BROWN

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OPINION AND ORDER

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108575W

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM

GERALD W. MITCHELL,

Claimant-Appellant,

File No. 89-63386-AE

v

Hon. Thomas L. Brown

BOC CAR ASSEMBLY,

OPINION AND ORDER

Employer-Appellee,

and

MICHIGAN EMPLOYMENT SECURITY
COMMISSION

Appellee.

This matter is before the Court on a claim of appeal from a denial of benefits from the Michigan Employment Security Commission (MESC). Appellant, Gerald W. Mitchell, an employee of BOC car assembly, experienced a two week lay off from employment. Appellant failed to file for unemployment benefits, under the mistaken belief that he would be contacted by MESC, or in the alternative that the means of filing for benefits would be processed through the mail as they apparently had been in the past. Appellant claims he was "confused" as to the proper method of filing.

As a consequence of his mistake, Appellant failed to contact MESC until a week after he had returned to work. Under a policy of refusing retroactive benefits without good cause shown for failure to file, Appellant was denied the two weeks benefits.

"Good cause" as defined by MESC regulations is:

"(2) As used in this rule:

(b) 'Good cause for late filing of a new or additional claim' and 'good cause for late reporting to file a continued claim' is deemed to exist if there is a justifiable reason, determined in accordance with a standard of conduct expected of an individual acting as a reasonable person in the light of all circumstances, which prevented a timely filing or reporting as required by this rule. Justifiable reasons which the commission may consider as constituting good cause for late filing of a new or additional claim or for later reporting to file a continued claim

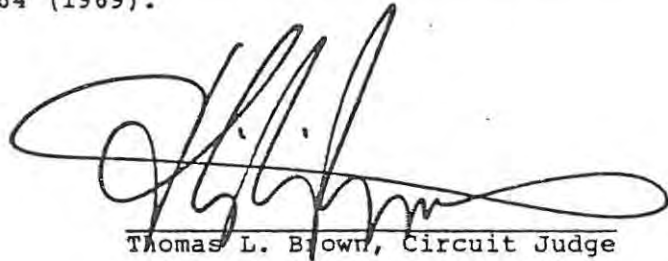
include, but are not limited, to the following:"

It is the opinion of this Court that when a reasonable person suspects they are entitled to certain benefits but are confused on the methods of establishing those rights, the responsibility of clarification lies with the reasonable person who wishes to assert those rights. While governmental agencies may be source of a great deal of the confusion which exists in our world today, they are duty bound to dispel that confusion upon request. In the instant matter Appellant failed to place that duty upon the agency.

Insofar as the Appellant failed to comply with a reasonable requirement, the ultimate decision and order of the Board of Review is affirmed, since it comports with the statutory and regulatory requirements. Viella v Michigan Employment Security Commission, 16 Mich App 187; 167 NW2d 864 (1969).

IT IS SO ORDERED.

Date: 3-29-90



Thomas L. Brown, Circuit Judge

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10th JUDICIAL CIRCUIT COURT