

# New York State Department of Labor

## A-750 Series

Index 725.7

NEW YORK STATE DEPARTMENT OF LABOR  
UNEMPLOYMENT INSURANCE DIVISION  
ADJUDICATION SERVICES OFFICE

March 1, 1940

INTERPRETATION SERVICE- BENEFIT CLAIMS  
CAPABILITY - Health

Appeal Board Case 1311-39

CAPABILITY - SERIOUS HEALTH AILMENT - RETIRED ON DISABILITY PENSION FROM  
EMPLOYER

A claimant with a serious heart ailment who cannot perform any work which there is a reasonable probability of obtaining, is not capable of employment within meaning of Section 502.10.

Referee's Decision: Claimant was not capable of employment. (September 6; 1939)

Appeal by: Claimant

Findings of Fact: Claimant, 61 years of age, worked as an inspector and field man for a Utility concern. In January 1936, he suffered a heart attack, which was diagnosed as coronary thrombosis and remained away from work until April. He was absent again from May to November 1936. In October 1937 claimant was examined by a company physician and was there-upon retired for disability with a life pension. Claimant visited the local office first in March 1938 and was then informed that he was not eligible for benefits because he was drawing a life pension. In March 1939, he read in a newspaper that receipt of pensions was no bar to benefits, but at the time, he was in the country because of his heart trouble and he did not register until two months later.

Issue: whether claimant was capable of employment.

Appeal Board Opinion: Claimant has been suffering from a serious heart ailment with complications; his medical History proves him to have been incapable of any employment which there was a reasonable probability of obtaining from the time he was retired for disability with a life pension. Claimant testified that an insurance company denied his application for disability benefits in 1938, but in view of the facts herein little weight can be attached to an insurance company's resistance to his claim based on a policy issued to him.

Decision: Claimant was incapable of employment. Decision of the Referee affirmed.

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A-750-8

Index No. 1150C-1

NEW YORK STATE DEPARTMENT OF LABOR  
UNEMPLOYMENT INSURANCE DIVISION  
ADJUDICATION SERVICES OFFICE

March 1, 1940

INTERPRETATION SERVICE – BENEFIT CLAIMS  
MISCONDUCT  
Dishonesty

Appeal Board Case No. 1613-39

MISCONDUCT – REMOVAL OF CUSTOMER'S PROPERTY AND REFUSAL TO MAKE AMENDS  
(SECTION 504.2(A) OF LABOR LAW)

A claimant who deliberately commits an act which is prejudicial to employer's interests and connected with his employment is guilty of misconduct within meaning of law.

Referee's Decision: Ten-week waiting period imposed. (October 23, 1939)

Appeal By: Claimant

Findings of Fact: While he was delivering coal to a customer, claimant, a chauffeur, took a box of candy from the cellar. Employer was willing to continue claimant in his employ if he adjusted the matter to customer's satisfaction. Claimant admitted taking the candy, but did not contact customer and was therefore discharged. He testified that he did not have the fare, which is about 35 cents, and that customer's residence was not near a bus line.

Issue: Whether imposition of ten-week waiting was proper.

Appeal Board Opinion: Evidence indicated that misconduct charged against the claimant was in connection with his employment and was the cause of loss of employment. Employer manifested leniency but claimant was apparently not sufficiently interested in saving his job to take advantage of opportunity afforded him.

Decision: Claimant lost his employment because of misconduct in connection therewith. Decision of the Referee was affirmed.

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A-750-42

Index No. 1305B-3

NEW YORK STATE DEPARTMENT OF LABOR  
UNEMPLOYMENT INSURANCE DIVISION  
ADJUDICATION SERVICES OFFICE

June 15, 1940

INTERPRETATION SERVICE – BENEFIT CLAIMS  
STRIKES, LOCKOUTS, ETC.

Industrial controversy, unemployment due to

Appeal Board Case 1829-39

STRIKES, LOCKOUTS, OR OTHER INDUSTRIAL CONTROVERSY – "RESIGNATION" BY STRIKER  
(SECTION 504.2(B) OF LABOR LAW)

Where loss of employment is due to strike, subsequent "resignation" from the job has no effect on imposition of extended waiting period.

Referee's Decision: Ten-week waiting period imposed. (November 18, 1939)

Appeal By: Claimant

Findings of Fact: Claimant, shipping clerk, admittedly went out on strike on October 2 and participated in picketing employer's establishment. He contends, however, that he resigned from the position on October 10.

Issue: Whether imposition of ten-week waiting period is proper.

Appeal Board Opinion: Claimant cannot avoid extended waiting period by the simple expedient of resigning after strike was called. Status created by the strike with respect to claimant is unaltered by any subsequent unilateral action on his part.

Decision: Claimant's loss of employment was due to a strike and ten-week waiting period is imposed. Decision of Referee affirmed.

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A-750-43

Index No. 1320C-1

NEW YORK STATE DEPARTMENT OF LABOR  
UNEMPLOYMENT INSURANCE DIVISION  
ADJUDICATION SERVICES OFFICE

June 15, 1940

INTERPRETATION SERVICE – BENEFIT CLAIMS  
STRIKES, LOCKOUTS, ETC.  
INDUSTRIAL CONTROVERSY  
Unemployment due to

Matter of Sadowski, 257 App. Div. 529 (1939)

STRIKE OCCURRING DURING TEMPORARY LAYOFF- INTERMITTENT WORKERS  
(SECTION 504.2(B) OF LABOR LAW)

When continuing contract for intermittent employment is still in effect, loss of employment may be attributable to a strike whether or not claimant is actually at work when strike commences in establishment.

The determination of whether loss of employment is due to a strike is a question of fact which is not affected by participation or non-participation in the dispute.

Appeal Board Decision: Claimant lost her employment because of a strike in the establishment in which she was employed. Decision of referee modified and affirmed. (November 10, 1938)

Appeal By: Industrial Commissioner

Findings of Fact: When claimant, employed on a regular short-time schedule for two days a week, completed her weekly allotment of work on May 6, foreman instructed her to return the

following week of May 12. A strike occurred in the plant on May 11 which lasted until June 27. Claimant admitted that she did not return as directed because of the strike; when the strike terminated claimant resumed work. Employer asserts that since claimant would have had work following layoff on May 6, her loss of employment was due to the strike that intervened.

Issue: Whether claimant lost her employment because of a strike within the meaning of Section 504.2(b).

Opinion of the Court: The design of this humane and beneficent legislation is to provide some income for employees who are deprived of employment because of lack of work. A distinction is made between those who are deprived of employment because of a strike. In the one case there is a waiting period of three weeks before the employee is entitled to statutory benefits; in the other, the waiting period is ten weeks. It is conceded that claimant was not discharged. The language in Section 504.2(b) is clear and unambiguous. It is immaterial whether or not claimant was an actual striker; she was deprived of her employment "because of a strike."

Decision: Claimant lost her employment because of a strike and is consequently ineligible for benefits until ten weeks have elapsed. Decision of Appeal Board affirmed.

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A-750-52

Index 795.12

NEW YORK STATE DEPARTMENT OF LABOR  
UNEMPLOYMENT INSURANCE DIVISION  
ADJUDICATION SERVICES OFFICE

JUNE 1940

INTERPRETATION SERVICE - BENEFIT CLAIMS  
AVAILABILITY AND CAPABILITY  
Absence from jurisdiction

FAILURE TO REPORT AT LOCAL OFFICE - AVAILABILITY - ABSENCE FROM JURISDICTION ON  
VACATION

A claimant who leaves the State to take a vacation has removed himself from the labor market and is not available for employment.

Absence from local office jurisdiction is not an acceptable reason for failure to report where claimant did not give advance notice or communicate with local office for a long period.

Referee's Decision: Claimant was eligible for benefits from August 1, to September 5, 1939.  
(1/18/40)

Appealed By: Industrial Commissioner.

Findings of Fact: Claimant failed to report on June 23, 1939 because he had left for his summer home in Vermont on June 20. He remained there until September 5, without notifying local office of change of residence, and next appeared at office on September 22. He testified that the main reason for his stay in Vermont was to keep down expenses which he claimed were lower than in the city.

Issue: Whether claimant's benefit rights were properly suspended by local office.

Appeal Board Opinion: Claimant has presented no acceptance excuse either for failure to report on June 23 or for his subsequent failure for a period of three months to take any steps to maintain an eligible status. He made no inquiry and took no steps to qualify through the special unit set up for the purpose of instructing claimants on proper procedure to maintain eligibility while residing in other States. Furthermore, although claimant has strongly urged that he was unemployed during his sojourn in Vermont, it is apparent from his testimony that he was taking a vacation and had withdrawn from the labor market.

Decision: Suspension of claimant's eligibility by the local office is sustained but the effective date is changed to June 20. Decision of Referee is reversed.

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A-750-56

Index No. 770.1

NEW YORK STATE DEPARTMENT OF LABOR  
UNEMPLOYMENT INSURANCE DIVISION  
ADJUDICATION SERVICE OFFICE  
June 22, 1940

INTERPRETTION SERVICE-BENEFIT CLAIMS  
DETERMINATION OF BENEFITS  
AVAILABILITY AND CAPABILITY  
Willingness to work

AVAILABILITY – CAPABILITY – WILLING TO ACCEPT EMPLOYMENT ONLY DURING CERTAIN SEASONS OF YEAR

Workers who are willing to accept employment only in certain seasons of the year are not available for employment for employment at other periods of the year within the meaning of the law.

Referee's Decision: Claimant's benefit rights suspended. (February 2,1940)

Appeal by: Claimant

Findings of Fact: Claimant stated on December 28 that he could not accept a position because he did not want to lose opportunity of reemployment as grass cutter and gardener on golf course, position which he had held for twenty years, and on the further ground that during the winter months he was unable to work because of rheumatism. On appeal, he stated that he was now capable of work, and willing to accept any job offered to him.

Issue: Whether suspension was proper.

Appeal Board Opinion: Claimant was concededly incapable of employment. Moreover, he had removed himself from the labor market by refusal to accept employment until his former position was open and he was therefore also unavailable for work. If his situation has now changed, he should file a new claim.

Decision: Suspension is sustained. Decision of Referee affirmed.

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A-750-57

Index No. 1175-4

NEW YORK STATE DEPARTMENT OF LABOR  
UNEMPLOYMENT INSURANCE DIVISION  
ADJUDICATION SERVICES OFFICE

June 22, 1940

INTERPRETATION SERVICE – BENEFIT CLAIMS  
MISCONDUCT  
Relations with fellow-employees

Appeal Board Case No. 2038-40

MISCONDUCT – RELATIONS WITH FELLOW EMPLOYEES – VOLUNTARY QUIT  
(SECTION 504.2(A) OF LABOR LAW)

Objectionable behavior toward fellow-employees, detrimental to employer's interest and repeated despite warnings, constitutes misconduct in connection with employment.

Referee's Decision: Ten-week waiting period imposed. (December 19, 1939)

Appeal By: Claimant

Findings of Fact: When claimant, delivery boy drug store, engaged in a fistfight at the establishment with a fellow employee, he was warned that another altercation would result in discharge. Three weeks later claimant accidentally collided with a waitress and berated her loudly, creating a disturbance in the presence of customers. When reprimanded claimant countered "Well, you are the boss – do as you like" and employer thereupon discharged him.

Issue: Whether claimant lost his employment through misconduct.

Appeal Board Opinion: Claimant's conduct, aggravated by his failure to heed previous warning, disrupted the proper decorum demanded by employer. Although the act leading to discharge may not in itself have been of serious import, it is believed to have been deliberate and of such nature as to be detrimental to employer's interests. Claimant's contention that he quit his job voluntarily is without merit. The fact that he may have challenged employer to discharge him does not detract from act of misconduct.

Decision: Ten-week waiting period was proper. Decision of Referee affirmed.

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A-750-58

Index No. 1185-5

NEW YORK STATE DEPARTMENT OF LABOR  
UNEMPLOYMENT INSURANCE DIVISION  
ADJUDICATION SERVICES OFFICE

June 22, 1940

INTERPRETATION SERVICE – BENEFIT CLAIMS  
MISCONDUCT  
Violations of company rules

Appeal Board Case No. 1778-39

MISCONDUCT – VIOLATION OF SAFETY RULE (SECTION 402.2(A) OF LABOR LAW)

Violation of a safety rule, despite prior warnings, constitutes misconduct within meaning of Law.

Referee's Decision: Extended waiting period imposed. (October 2, 1939)

Appeal By: Claimant

Findings of Fact: Claimant, engine room helper, was discharged for leaving the building unattended in violation of company rule. He admitted having received at least one prior warning and offered no satisfactory explanation for going out for coffee before 9 a.m., when relief man was expected. Fire Department and employer's insurance company both required that there be someone constantly in charge in building.

Issue: Whether claimant lost his employment because of misconduct.

Appeal Board Opinion: The rule which claimant violated was reasonable, necessary and in accordance with regulations of the Fire Department and employer's insurance company. In view of fact that there were prior warnings, claimant's loss of employment can be attributed only to his misconduct.

Decision: Extended waiting period sustained. Decision of Referee affirmed.

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A-750-61

Index No. 1215A-1

NEW YORK STATE DEPARTMENT OF LABOR  
UNEMPLOYMENT INSURANCE DIVISION  
ADJUDICATION SERVICES OFFICE

June 22, 1940

INTERPRETATION SERVICE – BENEFIT CLAIMS  
REFUSAL OF SUITABLE EMPLOYMENT  
Delay in acceptance

Appeal Board Case No. 1584-39

REFUSAL TO ACCEPT OFFER OF EMPLOYMENT – DELAY IN ACCEPTANCE

(SECTION 506.1 OF LABOR LAW)

A claimant who at first refuses and then agrees that she will accept suitable employment several days later, when the job has been filled, is subject to disqualification for refusal to accept suitable employment.

Referee's Decision: Claimant's eligibility suspended. (October 17, 1939)

Appeal By: Claimant

Findings of Fact: Claimant, stenographer, accepted referral to a job similar to the one she formerly held, but refused it when interviewed by employer. She explained to local office that her family was moving to the country for the summer in a few days. Local office thereupon informed her of suspension of eligibility. Several days later she stated she could accept the job as she had made arrangements to stay in the city with her aunt. In the meantime the job had been filled. The basis for her appeal is that the job offered was at an unreasonable distance from her home.

Issue: Whether claimant refused an offer of suitable employment.

Appeal Board Opinion: At the time claimant was offered the job, it was within walking distance from her home and, although she knew she was moving to the country, she raised no objection. It would seem that if she could make arrangements to stay in city several days after the offer was made, she could have made such arrangement on the same day.

Decision: Claimant refused to accept an offer of suitable employment. Decision of Referee affirmed.

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A-750-63

Index No. 1295-5

NEW YORK STATE DEPARTMENT OF LABOR  
UNEMPLOYMENT INSURANCE DIVISION  
ADJUDICATION SERVICES OFFICE

June 22, 1940

INTERPRETATION SERVICE – BENEFIT CLAIMS  
REFUSAL OF SUITABLE EMPLOYMENT  
Other reasons for refusal

REFUSAL TO ACCEPT OFFER OF EMPLOYMENT – MISTAKENLY INFORMED ON FIRST VISIT  
THAT NO OPENING EXISTED (SECTION 506.1 OF LABOR LAW)

Disqualification from benefits is applied where claimant, mistakenly informed on first visit to employer that no opening existed, refused to return when error was ascertained.

Referee's Decision: Claimant refused an offer of employment for which she was reasonably fitted by training and experience. (December 21, 1939)

Appeal By: Claimant

Findings of Fact: Claimant accepted referral to a job in her usual occupation as lining maker in ladies' coats. The shop was in Brooklyn, where claimant resides, and operated under union conditions. She returned to local office and reported that she had been informed by a young woman that there was no work for a lining maker. When local office called employer, he stated that claimant had not spoken to him and that there was an opening. Placement officer advised claimant to return to employer but claimant refused to do so. She contends that she did not refuse employment, since there was no work in the shop when she visited it.

Issue: Whether suspension of eligibility was proper.

Appeal Board Opinion: There is no question that the offer was for employment for which claimant is fitted by training and experience. It is possible that claimant was misinformed by a subordinate but upon being informed that the job was open it was incumbent upon her to accept the referral.

Decision: Claimant refused to accept an offer of employment for which she is reasonably fitted by training and experience. Decision of Referee affirmed.

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A-750-64

Index No. 1285-6

NEW YORK STATE DEPARTMENT OF LABOR  
UNEMPLOYMENT INSURANCE DIVISION  
ADJUDICATION SERVICES OFFICE

June 22, 1940

Appeal Board Case No. 1920-39

REFUSAL TO ACCEPT OFFER OF EMPLOYMENT – EXPECTATION OF RETURN TO REGULAR EMPLOYER – WILLINGNESS TO ACCEPT JOB IN INTERIM – TRANSFER TO A DIFFERENT LOCAL UNION AS CONDITION OF EMPLOYMENT (SECTION 506.1 OF LABOR)

Requirement as a condition of employment that claimant transfer at substantial sacrifice from one local union to another affiliated with the same international justified refusal.

Referee's Decision: Claimant did not refuse an offer of suitable employment within meaning of Law. (November 22, 1939)

Appeal By: Industrial Commissioner

Findings of Fact: When claimant reported to employer to whom she had been referred by local office, she was informed that she would have to transfer her membership from Local 89 of the International Ladies' Garment Workers' Union to a different local in the same union which had jurisdiction over shop. Claimant stated that she did not wish to transfer her present local since she intended to return to former employer as soon as work was available, whereupon employer advised her that he would not hire for a temporary period and therefore could not use her services. Claimant's benefits were suspended by local office for refusal of employment.

Issue: Whether suspension of claimant's rights by local office was proper.

Appeal Board Opinion: Claimant's regular employment was seasonal but she was willing to accept employment during the slack season. She was under no obligation to deceive employer about intention of returning to her regular employment, which intention was also within her rights. Her willingness to accept the job without making a binding agreement as to permanency satisfied requirements of the Law. Referee was correct in finding that the offer of employment was withdrawn by employer. There is another important issue. Claimant belonged to a union which embraced different crafts in the same industry. Each craft local has jurisdiction over its own shops with the right to make contracts. Transfer in this case would have compelled acceptance of a lower wage scale and less favorable conditions and payment of a fee. Under the circumstances, changing locals is analogous to changing membership from one union to a different union, particularly in view of the fact that claimant belonged to a local composed exclusively of Italian-speaking members. Requiring resignation from Local 89 would constitute a violation of section 506(a)

Decision: Suspension of claimant's benefits is rescinded. Decision of Referee is affirmed.

NEW YORK STATE DEPARTMENT OF LABOR  
UNEMPLOYMENT INSURANCE DIVISION  
ADJUDICATION SERVICES OFFICE

JULY 1946

INTERPRETATION SERVICE - BENEFIT CLAIMS  
TOTAL OR PARTIAL UNEMPLOYMENT  
Self-employment

AVAILABILITY - PARTNERS IN MEN'S CLOTHING FIRM AVAILABLE IN SLACK SEASON

Working (nominal) partner in men's clothing firm who has regularly worked elsewhere in the slack season is available for employment in that period within the meaning of the law but is entitled to benefits based only on earnings in employment outside the partnership.

A.B. 1628-39

Referee's Decision: Claimant is available for employment and eligible for benefits based on earnings in covered employment. (October 19, 1939)

Appealed By: Industrial Commissioner.

Findings of Fact: Claimant, union operator on men's coats, is a nominal member of a partnership which performs work on contracts basis for manufacturers. There are seven members, two of whom had been in business many years prior to 1937 when they were financially compelled to take in additional partners who invested \$500 each. The senior partners, in active charge of the business, have sole power to sign checks and lease, and workmen's compensation policy, etc., are carried in their names. Claimant worked at union rate during the short season of the year partnership operated and then was accustomed to secure work in other shops. There were never any profits and claimant's interest in partnership business was merely nominal. The \$500 investment was made in the vain hope of securing greater regularity of employment. Claimant registered for benefits in 1939 in period when partnership operations had ceased and his usual outside employment was not available. His claim was based on 1938 earnings in such outside employment.

Issue: Whether claimant is available for employment in slack season.

Appeal Board Opinion: Industrial Commissioner contends that previous rulings to the effect that a corporate officer is not available for employment in slack seasons are applicable here (A.B. 383-38; 384-38; 886-39; 1222-39; 1372-39; 1779-39; 1402-39; 1479-39). The facts in this case are, however, clearly distinguishable. In cases cited, the claimant was a responsible officer and substantial stockholder; he was in a position to fix amount of his salary and time of payment; he sought benefits based on earnings with corporation in question and had no record of other employment; he was in some cases compelled to visit premises of corporation during slack seasons to take care of mail, etc. In instant case, claimant takes no part in management of partnership business, works at fixed union scale and has record of outside employment. He is compelled now as before to seek work where he can find it. Furthermore, his claim for benefits is based solely on earnings in such outside employment. His status is the same as that of any other unemployed operator in the clothing trade.

Decision: Claimant is totally unemployed and available for employment. Decision of Referee affirmed.

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A-750-68

Index No. 1420-5

NEW YORK STATE DEPARTMENT OF LABOR  
UNEMPLOYMENT INSURANCE DIVISION  
ADJUDICATION SERVICES OFFICE

June 22, 1940

INTERPRETATION SERVICE – BENEFIT CLAIMS  
TOTAL OF PARTIAL UNEMPLOYMENT  
Self-employment

Appeal Board Case No. 1827-39

TOTAL UNEMPLOYMENT – AVAILABILITY – INCOME DERIVED FROM OWNERSHIP OF  
PROPERTY  
(SECTION 502.10 OF LABOR LAW)

The ownership of income-producing real estate does not necessarily constitute self-employment, and a person who is in fact available for regular employment such as he has had in the past may receive benefits although he devotes some time to preservation of his investments.

Referee's Decision: suspension of June 9 for unavailability for employment upheld. (November 30, 1939)

Appeal By: Claimant

Findings of Fact: Claimant owns three two-room bungalows in the country, which he rents during the summer season for about \$500. The bungalows are taken care of by his wife. On summer weekends claimant visited the resort, returning Sunday night. He had a number of weeks of full-time employment during that period. Local office suspended claimant's eligibility on June 9 and contends that he is not entitled to the six checks he received.

Issue: Whether claimant was totally unemployed and available for employment.

Appeal Board Opinion: It cannot be said that persons deriving income from stocks and bonds, and devoting some time to the preservation of their investments, are self-employed. Claimant is not engaged in business merely because he receives rent from bungalows. And the fact that he spent weekends in caring for bungalows did not remove him from labor market; his availability is proven by actual work history in that period.

Decision: Suspension of June 9 was improper. Decision of Referee reversed.

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A-750-70

Index No. 1450-1

NEW YORK STATE DEPARTMENT OF LABOR  
UNEMPLOYMENT INSURANCE DIVISION  
ADJUDICATION SERVICES OFFICE

June 22, 1940

INTERPRETATION SERVICE – BENEFIT CLAIMS  
TOTAL OR PARTIAL UNEMPLOYMENT  
Work without compensation

Appeal Board Case No. 1862-39

TOTAL UNEMPLOYMENT – WILFUL MISSTATEMENT – VOLUNTARY SERVICES RENDERED  
GRATUITOUSLY TO BROTHER  
(SECTIONS 502.10 AND 504.2(c) OF LABOR LAW)

A claimant who is actually available for employment may be totally unemployed within meaning of Law although he renders occasional and gratuitous services to his brother.

Referee's Decision: Ten-week waiting period imposed for wilful misrepresentation. (November 18, 1939)

Appeal By: Claimant

Findings of Fact: Local office, upon learning that claimant was working for his brother, imposed extended waiting period on the ground that he had certified to weeks of unemployment when he was not totally unemployed. Claimant, a coat presser, testified that he assisted in his brother's fruit store several days a week, without remuneration, at his brother's request and because the latter was in poor financial circumstances.

Issue: Whether claimant was totally unemployed.

Appeal Board Opinion: Claimant was undoubtedly available to accept employment in his usual occupation during the period in question. There is no evidence that he withdrew himself from the labor market. Under the circumstances, there was also a total lack of any employment. Claimant did not work regularly but only occasionally, and there was a complete lack of any remuneration. There is no indication that his brother ever hired any extra employees or that he would have hired another in claimant's place.

Decision: Suspension of benefit rights and ten-week waiting period imposed against claimant's benefit rights are rescinded. Decision of Referee reversed.

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A-750-71

Index 705.1

NEW YORK STATE DEPARTMENT OF LABOR  
UNEMPLOYMENT INSURANCE DIVISION  
ADJUDICATION SERVICES OFFICE  
July 29, 1940

INTERPRETATION SERVICE- BENEFIT CLAIMS  
AVAILABILITY AND CAPABILITY  
Detention, arrest

Appeal Board case No. 2573-40

AVAILABILITY - INCARCERATION-REGISTRATION - APPLICATION BY MAIL

Claimant may not be considered available for employment: while in prison. Registration by Mail is not acceptable when personal registration is required.

Referee's Decision; Claimant's request to have his application predated is denied. (March 11, 1940)

Appeal by: claimant

Findings of Fact: On October 14, 1939, claimant while incarcerated in jail, wrote to local office and requested that his letter be deemed an application for benefits. His request was denied. When he was released on November 13 he appeared in person and registered.

Issue: Whether claimant's registration may be predated to October 14.

Appeal Board Opinion: Claimant contends that since he was unemployed during period in question his request should be allowed. Personal registration is required of a claimant, and availability for employment. Claimant fulfilled neither requirement

Decision: Claimant's application for benefits may not be predated. Decision of Referee affirmed.

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