

UNEMPLOYMENT COMPENSATION COMMISSION OF VIRGINIA

DECISION OF APPEALS EXAMINER

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Decision No: S-5661-5538

ABLE AND AVAILABLE - 370.1

Date: August 29, 1958

Public Service -

Jury duty.

POINT AT ISSUE

Has the claimant been available for work during the week or weeks for which he claims benefits?

FINDINGS OF FACT

The claimant appealed from a decision of the Claims Deputy which declared him ineligible to receive unemployment compensation as of June 24, 1957.

The claimant was last employed by J. W. Bateson, where he worked as a structural iron worker from April 13, 1957, through June 14, 1957, and was separated from that employment due to lack of work. In April 1957 the claimant was notified by the Federal Government that he was being called for Federal jury service and that he would be notified in advance as to when he would be called. It was indicated that he might not be used during the entire time, but would be subject to call. From the date that he was notified up until the date of the hearing he was called for jury duty on three different occasions. On July 9, 1957, he was called and served on July 9, 10, 11, and 12, 1957, a total of four days. Prior to that he had been called to report on July 2, 1957, but did not have to serve. Again he was called on July 25, 1957, but was told that he would not be used that day. Court was not in session during the month of August, and therefore he had not been called. He has received a check for his services and he indicated that he thought he was receiving pay in the amount of \$7.00 for each day that he had served, including the two days that he was called but did not actually have to serve.

Throughout the period that he has been claiming, the claimant has been available for work and has been actively seeking employment by applying to employers for work. He does not place any unreasonable restrictions upon his employability and expects to obtain employment within the next week or two. The fact that he has been subject to Federal jury duty has not in any way interfered with his application or acceptance of work.

OPINION

Section 60-46 (c) provides in part that, in order to be eligible for unemployment compensation, a claimant must be available for work and that he must not place any unreasonable restrictions upon his employability.

The Examiner does not find that the claimant being subject to call for Federal jury duty would be an unreasonable restriction upon his employability. He has been doing those things reasonably expected of an unemployed person who is anxious to get work and has actively sought work

work during the period that he has been claiming. The Examiner is further of the opinion that the earnings that the claimant has made on the dates set forth above would constitute wages within the meaning of that term as used in the Act, and therefore the Deputy is directed to take these wages into consideration in processing his claims during the compensable weeks in which he has had earnings. (Underscoring supplied.)

DECISION

The decision of the Deputy is hereby reversed. It is held that the claimant has met the eligibility requirements of the Act from June 24, 1957, to August 27, 1957, the date of the hearing before the Examiner; however, his earnings from Federal jury service must be considered as wages under the Unemployment Compensation Law of Virginia.