

MISCELLANEOUS: 95.
Construction of Statutes.

Refer to: MISCELLANEOUS: 95.15.
Construction with Reference
to Other Statutes.

Commission Decision No. 24074-C

V I R G I N I A :

IN THE CIRCUIT COURT OF SMYTH COUNTY

DOCTOR B. ODHAM,

Petitioner

v.

VIRGINIA EMPLOYMENT COMMISSION,

Defendant.

FINAL ORDER

This matter came before the Court on February 15, 1985, upon a petition for judicial review of Decision NO. 23920-C of the Virginia Employment Commission (Commission) dated October 5, 1984, the Court having reviewed the pleadings, memoranda of law and having heard the arguments of counsel.

The sole issue presented is one of law, to wit: whether the petitioner has received benefits to which he was not entitled under Virginia Code § 60.1-132 and is liable to repay that sum where the overpayment is the result of benefits paid to him during the period between an award of unemployment compensation benefits and a subsequent reversal of that award by the Commission. The petitioner, by counsel, argues that he is not liable to repay the sum as he was entitled to receive the benefits by the express provisions of Code § 60.1-61 and that that statute permits the denial of

benefits only for those weeks of unemployment after the Commission's decision of reversal. The Commission, by counsel, argues that liability for overpayments is governed solely by Code § 60.1-132 which addresses collection of "any sum" overpaid, no matter when the overpayment occurred; that § 60.1-61 relates to the time and manner of paying benefits to claimants and each decision thereunder relates back to the date of the original claim; and that § 60.1-61 is therefore not inconsistent with § 60.1-132.

Upon consideration whereof, and particularly in light of the 1942 and 1962 amendments to Title 60.1, the Court finds that the Commission's decision is a correct interpretation and application of the law, and it is entitled to recover the sum of \$2,231.00. It is therefore,

ADJUDGED, ORDERED, AND DECREED that Commission Decision No. 23920-C is hereby affirmed and the petition for judicial review is dismissed with prejudice.

The petitioner, by counsel, objects to the foregoing action and decision of the Court.


The Clerk shall forward certified copies of this Order to counsel of record.

ENTER: *Feb 26, 1985*

Frederic M. Matthews

Judge

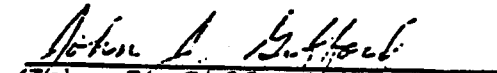
I ASK FOR THIS:



Steven Sheppard, III

Assistant Attorney General
101 North 8th Street
Richmond, Virginia 23219
Counsel for Virginia Employment Commission

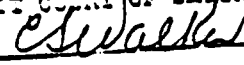
SEEN AND OBJECTED TO,



John J. Gifford, Esquire

Counsel for Petitioner
Southwest Virginia
Legal Aid Society
The Hull Building
554 South Main Street
Marion, Virginia 24354

A COPY, TESTS:
JAMES L. WARREN, CLERK OF THE
CIRCUIT COURT OF SMYTH COUNTY

BY: 

DEPUTY CLERK