

**DIGEST OF  
MICHIGAN UNEMPLOYMENT INSURANCE  
CASE LAW**

2005 EDITION

(Revisions and other updates pending.)

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## USER'S GUIDE

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### I. Introduction

This Digest is intended to serve as a research tool for claimants, employers, and agents or attorneys who are involved in the Unemployment Insurance appellate process. It is hoped the Digest will, by providing enhanced access to unemployment case law, assist parties and their representatives in the preparation and presentation of appeals before Unemployment Agency Administrative Law Judges (Referees), the Michigan Employment Security Board of Review and the Michigan courts.

### II. How To Use This Digest

#### A. Overview

When preparing an appeal or presenting a case before an Unemployment Agency ALJ, the Board of Review, or a court, parties and their representatives try to make use of the most authoritative precedent they can find which supports their position. This Digest is a tool to help find those cases. It must be kept in mind unemployment cases are usually "fact specific" and it is unlikely cases in the Digest will match up precisely with the case the reader is preparing. The goal is to understand the general principles which emerge from the decisions and apply them to the case at hand.

There are two basic approaches to using the Digest - one, to select the chapter which covers the topic of interest, then review the cases collected in that chapter, or two, to use the Subject Word Index to help locate pertinent decisions. These methods are described below.

#### B. Chapter Organization

The Digest is arranged in twenty chapters each covering a broad topic. As indicated in the Table of Contents, each chapter focuses on cases arising under one or more related sections of the MES Act. The reader may wish to consult Michigan Compiled Laws Annotated (MCLA 421.1 et seq) or Michigan Statutes Annotated (MSA 17.501 et seq) for the text of the Act.

At the beginning of each chapter, there is a table listing the cases contained in that chapter.

Editor's Note: It must be kept in mind the Digest utilizes a one page/one case format. That is, each case appears only once. Cases are assigned to chapters by the editor depending on the issue which is considered most significant or useful for precedent purposes. Some cases involve multiple issues and secondary issues may be addressed in the Digest entry, however, they

may be in a chapter other than the "natural" chapter for that issue. It is recommended the Subject Word Index should routinely be consulted as a precaution.

### C. Subject Word Index

This index is designed to guide the reader in locating cases by issue. The entries, arranged alphabetically, correspond to the "Heading" entry for each case contained in the Digest. Major categories, like "Misconduct" or "Voluntary Leaving" are followed by more specific sub-categories. The user should begin the case search by looking for one or more "issue" or "fact" words, for instance, "Burden of Proof" or "Profanity" which are related to the case with regard to which the research is being done. The pages referenced in the index after those key words will direct the reader to cases in the body of the Digest which deal with similar issues or facts. This process can then be repeated as needed.

### D. Case Entries

The bulk of the Digest consists of case entries. A uniform format is used. Beginning at the top of each page the following information is provided:

1. Chapter/page number
2. MES Act Section number
3. Subject matter heading, e.g. "Voluntary Leaving", "Buy-out program", "Reasonable alternatives". These items correspond to the Subject Word Index.
4. Cite As: The entry provided reflects how the digested case should be identified if used in an appeal or written argument.

Editor's Note: Because relatively few unemployment cases are appealed to the Michigan Supreme Court or result in published Court of Appeals decisions, "lower" appellate authority is sometimes the "best" authority available. Supreme Court and published Court of Appeals decisions are collected in bound volumes available in law libraries. The hierarchy of the precedential or persuasive value of decisions is as follows, with examples of how each is cited:

- a. Michigan Supreme Court: 250 Mich 800 (1990)
- b. Published Michigan Court of Appeals: 250 Mich App 800 (1990)
- c. Unpublished Michigan Court of Appeals: Case Names, Court of Appeals, January 31, 2000 (No. 156789) or Case Names, No. 100250 (Mich App January 1, 1990).

NOTE: Unpublished opinions of the Court of Appeals do not have binding precedential value. Moultrie v DAIE, 123 Mich App 403 (1987).

- d. Circuit Court opinions: Names, Wayne Circuit Court, No. 99-13200-AE (December 28, 1999).
  - e. Board of Review decisions: Claimant (Employer), 1990 BR 110500 (B88-15000).
5. Appeal pending: Whether or not an appeal from the digested decision is currently pending at the next appellate level.
  6. Claimant/Employer/Docket number: Names of the involved claimant and employer and the Appeal Docket Number used by the Referee Division and Board of Review. This information is helpful in locating cases.

7. **Holding:** A brief statement of the key legal principle for which the summarized case stands.

8. **Facts:** A concise statement of the significant facts in the summarized case.

9. **Decision:** The actual result reached by the court in the summarized case.

10. **Rationale:** Related to the Holding, the Rationale provides a more elaborate explanation of the court's reasoning. The Rationale entry often consists of a quote excerpted from the decision itself.

At the risk of oversimplification, these pieces fit together like this - the Decision is what resulted when the Holding was applied to the Facts.

#### E. Tables of Cases

Two comprehensive tables of cases are also provided. If looking for a specific case and the claimant's name is known, consult the Claimant-Employer Table which lists the parties to all digested cases, in alphabetical order, with Claimants' names first. Similarly, the Employer-Claimant Table lists the parties in alphabetical order, with Employers' names first.

Again it should be kept in mind the Digest entries represent highly condensed summaries of longer decisions. Although every effort is made to extract the key elements of the decision for inclusion in the Digest, the unemployment researcher may wish to read the actual opinions in their entirety, or pursue research beyond the scope of the Digest at a law library or public library with a legal collection.

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