

FILING FOR BENEFITS, REPORTING

Sections 28(1)(b), 32

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Section 28(1)(b)

FILING FOR BENEFITS, Timeliness in filing claim, Good cause, Union grievance, Unfamiliarity with the Act, Justifiable reason

CITE AS: Kuprashuk v Greyhound Lines, No. 83-334785-AE, Wayne Circuit Court (November 2, 1984).

Appeal pending: No

Claimant: Helen V. Kuprashuk  
Employer: Greyhound Lines  
Docket No: B82 02234 82880

CIRCUIT COURT HOLDING: Waiting for the employer to respond to a union grievance and unfamiliarity with Commission filing procedures do not constitute good cause for late filing.

FACTS: The claimant filed her claim late because she had initiated steps to return to her job by filing a grievance which the employer failed to answer immediately and because of unfamiliarity with the Commission filing procedures.

DECISION: The claimant did not have good cause for late filing.

RATIONALE: The Court adopted the decision of the Referee, as affirmed by the Board, which held that "[T]he reasons for [claimant's] late filing were not contained in Rule 210(2) of the Administrative Rules of the Commission ... and in addition, the fact that the claimant alleges unfamiliarity with the Act, and the fact that claimant was waiting for a response to her union grievance, do not constitute justifiable reasons for failing to file a timely claim."

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3, 11:NA

Section 32

FILING FOR BENEFITS, Timeliness, Illiteracy, Interpreter

CITE AS: Alasri v MESC, No. 69891 (Mich App March 13, 1984).

Appeal pending: No

Claimant: Ali M. Alasri  
Employer: Chrysler Corporation  
Docket No: TRA81 10471 79796

COURT OF APPEALS HOLDING: The MESC is not required to provide an illiterate claimant with verbal instructions about the filing process or an interpreter where the Commission was not aware of the illiteracy problem.

FACTS: A claimant of Arabic background who did not read English well was late in filing for TRA training benefits. Notification of the training benefits program was mailed to the claimant.

DECISION: Denial of training benefits was affirmed.

RATIONALE: "Plaintiff has produced no evidence that the MESC was aware of his illiteracy at the time the notice was sent. We therefore concluded that the responsibility for translating the notice rested with plaintiff, who should have acted in some way to inform himself of its contents."

## Section 28(1)(a), 32

REPORTING FOR BENEFITS, Missed appointment, Length of ineligibility, MESC Rule 210.

CITE AS: Wambaugh (Harvey Home), 1980 BR 68029 (B79-06575).

Appeal pending: No

Claimant: Margie M. Wambaugh  
Employer: Harvey Home  
Docket No: B79 05675 68029

BOARD OF REVIEW HOLDING: The period of ineligibility for failing, without good cause, to report to a Commission office as scheduled on a continued claim, is limited to weeks preceding the week of the appointment.

FACTS: Claimant had an on-going (continued) unemployment benefits claim. She reported to an MESC branch office to certify as to her eligibility on January 9, 1979. She was given a next appointment date of January 23, 1979 but for various reasons did not report on that date or until February 9, 1979. The MESC held her ineligible for the four week period from January 7, 1979 - February 3, 1979, including the two preceding weeks ending January 13 and 20 for which she could have certified on January 23 and the subsequent two weeks because by failing to report she did not "establish the effective date of the next succeeding benefit period."

DECISION: Claimant is not ineligible pursuant to the reporting requirements of Sections 28 and 32 because the Board found claimant had good cause for failing to report. (Editor's Note: Although in light of that finding the Board's holding may appear to be dicta, various panels of the Board have since repeatedly followed the principle of Wambaugh.)

RATIONALE: MESC Rule 210(9) "is arbitrary and capricious...."

The second function, that of establishment of the effective date of the next succeeding benefit period as a condition to the entitlement for benefits for such succeeding period, is meaningless. For example, the elements of eligibility for benefits can always (and only) be established at the conclusion of the week or weeks in question. Therefore, we hold that an individual who misses a bi-weekly reporting date without good cause shall forfeit only his entitlement to the prior two weeks of benefits, that is "the completed week or weeks of unemployment" referred to in Rule 210(9)."

Section 28(1)(b)

FILING FOR BENEFITS, Late filing, Employer advice

CITE AS: MESC v Wisneski, Macomb Circuit Court No. 78-8670-AE ( March 14, 1980).

Appeal pending: No

Claimant: Sylvester Wisneski  
Employer: Inland Tool and Manufacturing, Inc.  
Docket No. B77-4712-54924

CIRCUIT COURT HOLDING: Good cause in late filing situations means an inability to personally appear at an Unemployment Agency branch office. The claimant had a duty to go to the branch office to verify the employer's advice.

FACTS: Claimant's job terminated without notice on July 31, 1976. On leaving, the claimant received checks of one month's salary and 2 weeks vacation pay. The employer told claimant he had to wait 6 weeks before filing for unemployment benefits because of the 2 checks. As a result, claimant did not file for benefits until September 15, 1976. The Referee held the claimant ineligible for benefits for the 6 week period prior to September 15, 1976, and the employer's incorrect advice did not satisfy the good cause requirement for late filing.

DECISION: The claimant is ineligible for benefits for the period of July 25, 1976 to September 11, 1976 because he lacked good cause for late filing.

RATIONALE: MESC Rule 210 defines "good cause" as a "justifiable reason determined in accordance with a standard of conduct expected of an individual acting as a reasonable person in light of all the circumstances" and sets out examples. The court found in applying the Rule that "good cause" "deals with situations a claimant has no control over, reliance on the erroneous advice of an employer certainly does not fall within this category."

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N/A

Section 28(1)(b)

FILING FOR BENEFITS, Late filing, Employer advice

CITE AS: Long v General Motors Corp., Wayne Circuit Court, No. 98-82160 (January 29, 1999).

Appeal pending: No

Claimant: Deborah Long  
Employer: General Motors  
Docket No. B96-05442-140554

CIRCUIT COURT HOLDING: A claimant who was misinformed by the employer as to the date of her layoff had good cause to excuse her late filing of a claim for benefits.

FACTS: Claimant worked half a day on Friday March 8, 1996 and was sent home and told by her foreman she was laid off effective Monday March 11, 1998. Claimant relied on this representation and information she received from her union in a letter which advised her to file her claim the week following her lay-off. She checked with several other union officials and employees and all advised her to "Go by the union letter." The claimant did not file her claim until Monday March 18, 1996

DECISION: The claimant had good cause for late filing and is not ineligible under Section 28(1)(b) of the Michigan Employment Security Act.

RATIONALE: The claimant clearly relied on the representations of the employer and her union. This reliance is allowed under MESC Administrative Rule 210(2)(c)(ii). The claimant reasonably relied on the employer's representation that even though she was sent home early on March 8, 1996 her lay off did not begin until Monday March 11, 1996. The court found "Although it may also have been reasonable to follow a different course of action, appellant (claimant) did not act unreasonably because she did not do so."

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21, 16, d23: F

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Section 28

LATE FILING, Good cause, Duty to inquire

CITE AS: Mitchell v BOC Car Assembly, Ingham Circuit Court, No. 89-63386-AE (March 29, 1990).

Appeal pending: No

Claimant: Gerald Mitchell  
Employer: BOC Car Assembly  
Docket No. B88-05151-108575W

CIRCUIT COURT HOLDING: Claimant's assertion that he was confused about the proper method of filing is not good cause for failure to file a timely claim.

FACTS: Claimant was temporarily laid off for two weeks. He failed to contact the MESC about filing a claim until a week after he returned to work. The claimant said he was confused as to how to file because he believed he would be contacted and/or would be able to file by mail.

DECISION: Claimant is ineligible for benefits under Section 28(1)(b).

RATIONALE: It was claimant's responsibility to get clarification about how to file a claim. While the rules and procedures may be confusing, the Agency could not provide information or clarification if claimant did not seek it.

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11, 3: N/A

Section 28(1)(b)

LATE FILING, Late Reporting, Good cause, Illiteracy, UA Rule 210

CITE AS: Coley v GMC, Oldsmobile Division, Ingham Circuit Court, No. 88-61653-AE (October 12, 1988).

Appeal pending: No

Claimant: Ruby Coley  
Employer: GMC, Oldsmobile Division  
Docket Nos. B87-09107-106330W  
B87-09106-106331W

CIRCUIT COURT HOLDING: Where a claimant sat on her rights for seven months after relying on a family member's interpretation of an Agency document, she cannot claim she had good cause for her failure to timely report and file.

FACTS: Claimant was fired by employer on December 13, 1982. She applied for and received benefits for some time. Claimant was denied benefits for period February 20, 1983 through October 22, 1983, due to failure to report and failure to file a continued claim without good cause. Claimant's position was that she stopped reporting after receiving a determination denying her benefits on or about March 8, 1983. Claimant is illiterate. Her daughter read the determination and advised her she no longer needed to report.

DECISION: Claimant is ineligible for benefits under Section 28(1)(a) and (b).

RATIONALE: Under MESC Rule 210(2)(b) - in order to establish "good cause" claimant must show she acted as a reasonable person in light of all the circumstances. Claimant's decision not to report was the result of an exercise of free will. There is no separate standard for illiterate claimants. Claimant waited seven months before investigating her rights and responsibilities with respect to the determination. That behavior does not comport with the meaning of good cause.

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14, 13: N/A