

# MAINE STATE LEGISLATURE

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December 10, 1948

To L. C. Fortier, Chairman, M. U. C. C.  
Re: Amount to Reduce Benefits in Disqualification Cases

Section 5 of the Unemployment Compensation Law reads in part as follows:

"An individual shall be disqualified for benefits:

(a) For the week in which he has left work voluntarily without good cause, if so found by the commission, and for not less than 1 nor more than the 5 weeks which immediately follow such week (in addition to the waiting period), as determined by the commission according to the circumstances in each case, and his maximum benefit amount shall be reduced by an amount equivalent to the number of such weeks of disqualification times his weekly benefit amount; . . ."

As originally enacted, the same section read in part:

"An individual shall be disqualified for benefits:

(a) For the week in which he has left work voluntarily without good cause, if so found by the commission, and for not less than the 1 nor more than the 5 weeks which immediately follow such week (in addition to the waiting period), as determined by the commission according to the circumstances in each case."

Before amendment, the claimant suffered merely a delay. After the amendment, he suffers, in addition to delay, a pecuniary loss.

Was it intended that the pecuniary loss should exceed the number of weeks for which he would otherwise have been entitled to benefits if it were not for the disqualifying decision?

Specifically, the question raised is whether, when a disqualification is imposed, the amount of the reduction in available benefits shall be determined by the number of weeks imposed by the decision plus 2; i.e., 1 for the week in which the offense was committed plus 1 for the waiting period, or whether the amount should be determined simply by multiplying by the number of weeks imposed by the decision.

The general rule with respect to relative and qualifying words is that "relative and qualifying words and phrases, grammatically and legally, where no contrary intention appears, refer solely to the last antecedent". (Lewis' Sutherland on Statutory Construction, Sec. 420, p. 811)

In examining the statute, it appears clear that the words "such weeks", as used in the latter portion of the section, refer to the "not less than the 1 nor more than the 5 weeks" as used earlier in the section. If this were not clear, it becomes so, in the light of the general rule quoted above, for upon analysis, the last antecedent to "such weeks" as used in the latter part of the section can only be the words referred to above. These are the weeks of penalty as imposed by commission action.

It further would appear that in applying the general rule a perfectly logical result is reached since uniformly and in all cases the amount of the reduction will be the precise amount that would otherwise cover compensable weeks. If a claimant had, within the benefit year, previously served a waiting period, the contrary construction could not apply, since there would be no waiting period week within the disqualifying period. Generally, an individual cannot be paid for the week in which his separation occurs, because he will not be registered for work or will have earned in excess of his benefit amount or will not have served his waiting period.

The weeks preceding the decision-imposed penalty weeks hence are not compensable weeks of unemployment. The real penalty or forfeiture stems from the decision imposing it and embraces the weeks which in normal course would have been compensable. This is a logical and consistent result. It results from applying the applicable general rule of construction and not from doing violence to it.

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