

IN THE COURT OF APPEALS OF IOWA

MARY JO A. DEROGHIE; L. M. JAMES;
Y. J. HACKETT; M. B. THOMPSON;
G. K. MOORE; I. M. FRAGEE; L. S.
WILLER; G. K. PAUL; N. L. PAUL;
B. K. SANTEE; S. A. ALLYM; and
B. J. LEIBRICK,

Petitioners-Appellants,

vs.

IOWA DEPARTMENT OF JOB SERVICE,

Respondent-Agency-Appellee,

and concerning

SWIFT & CO., DAIRY & POULTRY,

Respondent-employer-appellee.

FILED

NOV 29 1982

CLERK SUPREME COURT

Filed November 29, 1982

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2-237

2-67566

Appeal from Woodbury District Court, D. M. Pendleton, Judge.

Petitioners were employees of a turkey processing plant who became eligible for unemployment benefits when laid off due to a seasonal layoff. They were not rehired when the plant closed prior to the time scheduled for rehiring. A 1979 amendment to Iowa Code section 96.3(5) provides higher benefits for employees laid off due to plant closing. Respondent agency, affirmed on judicial review, held the amendment inapplicable to petitioners since the initial layoff was not due to the plant closing. REVERSED AND REMANDED.

LeRoy J. Sturgeon of Smith & Smith, Sioux City, for petitioners-appellants.

Walter F. Maley, Joseph L. Bervid, and Blair H. Dewey, Des Moines, for respondents-appellees.

Considered by Oxberger, C.J., and Donielson, Snell, and Johnson, JJ.

OXBERGER, C.J.

Petitioners were employees of a turkey processing plant who became eligible for unemployment benefits when laid off due to a seasonal layoff. They were not rehired when the plant closed prior to the time scheduled for rehiring. A 1979 amendment to Iowa Code section 96.3(5) provides higher benefits for employees laid off due to plant closing. Respondent agency, affirmed on judicial review, held the amendment inapplicable to petitioners since the initial layoff was not due to the plant closing. We reverse and remand.

The employees had applied for unemployment insurance benefits at the time of a seasonal layoff, and their benefit amounts were computed at that time. When the plant closed and their recall to work was canceled, they applied to the Iowa Department of Job Service for a recomputation of their benefits according to the amendment concerning plant closing. The department, by decision of the claims deputies, ruled that since the employees had already been laid off before the plant closed, they were not eligible for the additional benefits. On appeal, the hearing officer upheld the decision, the appeal board upheld this decision, rehearing was denied, and on judicial review, the district court affirmed the decision of the Department.

Iowa Code section 96.3(5), as amended in 1979, directs the Department of Job Service to "recompute wage credits for an individual who is laid off due to the individual's employer going out of business. . . by crediting the individual's account with one-half instead of one-third of the wages for insured work paid to the individual during the individual's base period."

The employees argue that it was the intent of the legislature to provide this extra help to victims of plant closings who were already on a seasonal layoff prior to the plant closing, were about to be recalled to work as usual, but continued to be laid off due to the plant closing, as well as to those who were working in the

plant up to the date that the plant closed and were thus laid off due to the closing. They argue that the legislature intended to assist victims of unemployment caused by plant closings, whether the plant closing was the initial, sole, proximate cause of the unemployment, or a subsequent "intervening and superseding cause." They would have us construe the phrase "is laid off due to" as including a person who is "out of a job due to" a plant closing.

The polestar of of statutory construction is legislative intent. State v. Whetstone, 315 N.W.2d 758, 760 (Iowa 1982); Eggman v. Scurr, 311 N.W.2d 77, 78 (Iowa 1981).

The Iowa Employment Security Law was enacted for the avowed purpose of minimizing the crushing burden of involuntary unemployment which so often falls upon the unfortunate worker and his family. Iowa Code § 96.2 (1981). The supreme court long ago concluded, "Clearly the chapter should be interpreted liberally to achieve that legislative goal whenever possible." Smith v. Iowa Employment Security Commission, 212 N.W.2d 471, 472-73 (Iowa 1973). The same principle was reiterated more recently in Brumly v. Iowa Department of Job Service, 292 N.W.2d 126, 129 (Iowa 1980).

In order to give effect to the legislature's clear intention, the department promulgated a new rule after the department's actions affecting the petitioners herein, but before the district court's judgment. This new rule provides that "[w]henever an employer... goes out of business at [the place at] which the claimant was last employed and is laid off," supplemental benefits provided by Iowa Code section 96.3(5) will apply. Iowa Administrative Code 370-4.22(4). Since administrative rules must be used for the purpose of carrying out legislative enactments, Holland v. State, 253 Iowa 1006, 1010, 115 N.W.2d 161, 164 (1962), this rule must reflect the department's interpretation of the statute. By its own

terms, this rule would have to apply to these petitioners, since they were last employed at the plant which was closed and were laid off from that employment. Thus, under the department's own interpretation of the statute, as embodied in its rules, these employees should have been entitled to have their benefits recomputed in accordance with the mandatory provisions of the code.

"Administration rules seek to implement the statutes but it is for the court to finally interpret them." Michigan-Wisconsin Pipe Line Co. v. Johnson, 247 Iowa 583, 594-95, 73 N.W.2d 820, 827 (1955); Eves v. Iowa Employment Security Commission, 211 N.W.2d 324, 326 (1973).

Applying the rule of interpretation set forth Smith and Brumly, supra, and considering the purposes for which the Employment Security Law was enacted, we conclude that I.A.C. 370-4.22(4) correctly gives effect to the legislature's intention in its enactment of section 96.3(5) as amended. Inasmuch as it does so, it should be applied retroactively to the petitioners herein. We interpret this rule to mean that a person who is temporarily laid off with the expectation of returning to work once temporary or seasonal factors have been eliminated, and is then prevented from returning to work because of the employers going out of business, has been laid off due to the employer's going out of business and is entitled to the benefits spelled out in Iowa Code section 96.3(5)(1981) and Iowa Administrative Code 370-4.22(4)(1981).

We therefore reverse and remand to the commission for action consistent with this decision.

REVERSED AND REMANDED.