

IN THE COURT OF APPEALS OF IOWA

FILED

OCT 28 1982

CLERK SUPREME COURT

KENNETH L. MAUK,)

Petitioner-Appellant,)

vs.)

Filed October 28, 1982

IOWA DEPARTMENT OF JOB SERVICE)
and DILLEY MANUFACTURING)
COMPANY,)

2-320
2-68078

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Respondents-Appellees.)

Appeal from Polk District Court - Luther T. Glanton, Jr., Judge.

Claimant appeals from district court's decision on judicial review affirming respondent-agency's denial of unemployment benefits asserting that 1) he was denied a fair hearing when the agency failed to inquire into a material issue and to apply Iowa law, 2) the district court erred when it failed to grant a limited remand pursuant to Iowa Code § 17A.19(7) (1981), and 3) the district court erred when it failed to properly apply legislative and judicial standards of interpretation.
REVERSED AND REMANDED.

Robert C. Oberbillig, Des Moines, Iowa, for petitioner-appellant.

Walter F. Maley, Blair H. Dewey, and Edmund Schlak, Des Moines, Iowa, for respondent-appellee Iowa Department of Job Service.

Heard en banc.

Claimant, Kenneth L. Mauk, appeals from the district court's decision on judicial review affirming respondent-Agency's, Iowa Department of Job Service, denial of unemployment benefits. On appeal, claimant asserts that (1) he was denied a fair hearing when the agency failed to inquire into a material issue and to apply Iowa law, (2) the district court erred when it failed to grant a limited remand pursuant to Iowa Code § 17A.19(3) (1981), and (3) the district court erred when it failed to properly apply legislative and judicial standards of interpretation. We agree with claimant's first assignment of error, and reverse the district court's judgment and remand the case to the agency for further factfinding. See Iowa Code § 17A.19(8).

From early January 1980, to March 5, 1980, claimant was employed by respondent, Dilley Manufacturing Company (Dilley), as a machine operator. While he was working at Dilley, claimant's wife became ill and hospitalization for surgery was imminent. Claimant informed Dilley of his wife's condition and indicated that he would be absent from work when his wife's condition so demanded. Claimant, however, did not inform Dilley as to the exact time and date of his expected absence. Claimant missed work on March 7, 10, and 11, 1980, to be at the hospital with his wife. On March 11, 1980, Dilley mailed a notice of termination of employment to the claimant.

Claimant's application for unemployment benefits was contested by Dilley and denied by the agency. After exhausting administrative remedies, claimant filed a petition in district court for judicial review of the agency's action. In his petition, claimant alleged that substantial evidence in the record did not support the agency's decision and that he was denied a fair hearing. The claimant also claimed that the agency erred in denying his application for rehearing and presentation of additional evidence. The district court affirmed the agency's decision and this appeal followed.

I. Scope of Review. Pursuant to Iowa Code § 17A.20 (1981), our review is limited to a determination of whether the district court committed errors of law when it exercised its power of review of agency action under Iowa Code § 17A.19 (1981). Iowa Civil Rights Commission v. Woodbury County Community Action Agency, 304 N.W.2d 443, 446 (Iowa Ct. App. 1981). Section 17A.19 limits the district court's review to a determination of whether the agency's action is, inter alia, "[i]n violation of constitutional or statutory provisions." Iowa Code § 17A.19(3)(a) (1981). Thus, to determine whether the district court properly exercised its power of judicial review "this court applies the standards of section 17A.19(8) to the agency action to determine whether this court's conclusions are the same as those of the district court. If the conclusions are the same, affirmance is in order. If they are not, reversal may be required." Jackson County Public Hospital v. PERB, 280 N.W.2d 426, 429-30 (Iowa 1979).

II. Fair Hearing. Iowa Code § 96.5(1)(c) (1981) provides:

An individual shall be disqualified for [unemployment] benefits:

1. Voluntary quitting. If he or she has left his or her work voluntarily without good cause attributable to his or her employer, if so found by the department. But he or she shall not be disqualified if the department finds that:

* * *

c. He or she left his or her employment for the necessary and sole purpose of taking care of a member of his or her immediate family who was then injured or ill, and if after said member of his or her family sufficiently recovered, he or she immediately returned to and offered his or her services to his or her employer, provided, however, that during such period he or she did not accept any other employment.

In his decision, the agency's hearing officer stated that "[t]he claimant was off work because his wife was sick The claimant's absence was for good personal reasons but did not constitute good cause attributable to his employer."

The agency's denial of benefits thus focused on the first sentence of section 96.5(1). Nowhere in the hearing officer's decision or the appeal board's decision, however, was section 96.5(1)(c) mentioned. Likewise, the district court in its judgment failed to mention section 96.5(1)(c). A cursory reading of section 96.5(1)(c) leads us to conclude that, if the claimant falls within that section, the agency should not have denied his claim, see Iowa Code § 96.5(1)(c) (1981), and the district court should not have affirmed the agency's action. See id. § 17A.19(8)(a).

On the basis of the record before us, however, we cannot determine whether the illness of claimant's wife was the "necessary and sole purpose" of his leaving his employment. See id. § 96.5(1)(c). In addition, the record is not clear whether "during such [absence claimant] did not accept any other employment." Id. (emphasis added). Rather, the record merely discloses that the claimant began work as a bus driver on or about April 15, 1980. In light of such an incomplete record, we are not prepared to hold that claimant falls within section 96.5(1)(c). We therefore remand the case to the agency for further factfinding with respect to the section 96.5(1)(c) question. Id. § 17A.19(8).

In light of our conclusion to remand this case to the agency for further factfinding, there is no need to address claimant's other assignments of error. See generally Rowen v. LeMars Mutual Insurance Co., 230 N.W.2d 905, 912 (Iowa 1975) (administrative agency better equipped than judiciary to adjudicate issues of fact). We, therefore, reverse the judgment of the district court and remand this case to the agency.

REVERSED AND REMANDED.