

1970

# Benjamin Amador v. Department of Employment Security of the State of Utah : Brief of Respondent

Utah Supreme Court

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# IN THE SUPREME COURT OF THE STATE OF UTAH

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BENJAMIN AMADOR,

*Appellant,*

vs.

DEPARTMENT OF EMPLOY-  
MENT SECURITY OF THE  
STATE OF UTAH,

*Respondent.*

Case No.  
12059

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## BRIEF OF RESPONDENT

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Appeal from a Decision of the Department of Employment Security, State of Utah, as upheld by the Appeals Referee and the Board of Review Industrial Commission, State of Utah.

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VERNON B. ROMNEY  
Attorney General

FRED F. DREMANN  
Special Assistant  
Attorney General

Attorneys for Respondent

RICHARD L. YOUNG  
College of Law  
University of Utah  
Salt Lake City, Utah  
Attorney for Appellant

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# IN THE SUPREME COURT OF THE STATE OF UTAH

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BENJAMIN AMADOR,  
*Appellant,*  
vs.  
DEPARTMENT OF EMPLOY-  
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STATE OF UTAH,  
*Respondent.*

Case No.  
12059

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## BRIEF OF RESPONDENT

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### STATEMENT OF CASE

This is an appeal from a decision of the Department of Employment Security, denying the appellant unemployment compensation benefits and ordering appellant to repay \$1,326.00 for which the appellant was allegedly not legally eligible. In a decision dated March 18, 1970, the Board of Review of the Industrial Commission of Utah affirmed the decision of the appeals referee dated January 6, 1970, denying appellant's claim for unem-

ployment compensation benefits for certain weeks and ordering appellant to repay monies received for said weeks in the total amount of \$1,326.00.

## RELIEF SOUGHT ON APPEAL

Appellant seeks reversal of the decision of the Department of Employment Security, claiming entitlement to the monies received.

## STATEMENT OF FACTS

There is no dispute as to the facts. The appellant on February 6, 1969 quit his job with the United States Smelting, Refining and Mining Company. After a three-week disqualification period he filed claims for the weeks ending March 8, 15, 22, April 5, and May 10, 1969—personally signing each claim. The Department received claims for benefits bearing the appellant's name for the calendar week ending March 29, the weeks during the period beginning with the week ending April 12 through the week ending May 3, and for the weeks during the period beginning with the week ending May 17 through the week ending October 4, 1969. These latter claims were all signed by appellant's wife in the appellant's name. (R-0031). The appellant received \$1,326.00 in unemployment compensation benefits for the claims signed by his wife. (R-0033). All of the continued weekly claims were filed by mail.

## THE ISSUE

Was the appellant legally entitled to unemployment compensation benefits for those weeks with respect to which he personally did not file claims as required by the Employment Security Act and regulations adopted pursuant thereto?

## ARGUMENT

### POINT I

THE DEPARTMENT DID NOT ERR IN ITS DECISION THAT THE APPELLANT FAILED TO FILE UNEMPLOYMENT COMPENSATION CLAIMS AND THAT THE APPELLANT THEREFORE WAS NOT ENTITLED TO THE BENEFITS HE RECEIVED ON CLAIMS WHICH WERE FILED BY HIS WIFE.

The Employment Security Act, Chapter 35-4-4a provides:

“Any individual shall be eligible to receive benefits with respect to any week only if it has been found by the Commission that: (a) he has made a claim for benefits with respect to such week in accordance with such regulations as the Commission may prescribe.”

The Employment Security Act, Chapter 35-4-6d also provides:

“Any person who, by reason of his fraud, has received any sum as benefits under this act to which he was not entitled shall be liable to repay such sum to the Commission for the fund. If any person, by reason of his *own fault*, has received any sum as benefits under this act to which under a redetermination or decision pursuant to this section, he has been found not entitled, he shall be liable to repay such sum, and/or shall, in the discretion of the Commission, be liable to have such sum deducted from any future benefits payable to him. In any case in which under this subsection a claimant is liable to repay to the Commission any sum for the fund, such sum shall be collectible in the same manner as provided for contributions under this act.” (Emphasis ours.)

Pursuant to the provisions of Section 35-4-4a, supra, the Industrial Commission of Utah adopted regulation R-301 which provides in part:

“B. Registration for Work and Claims for Benefits for Total or Part-Total Unemployment.

“A claim for benefits or for waiting period credit shall be filed on forms prescribed by the Department and as follows:

“4. To maintain continuing eligibility for benefits with respect to any week of unemployment during any continuous period of unemployment, an individual shall continue to register and report as provided in subsections 1, 2, and 3 above, once each week at a time designated by the Department or at intervals of more or less than one week when so directed by the Department. No continued claim for benefits shall be allowed until the

claimant shall furnish to the Department a signed continued claim for benefits on the form prescribed.”

The claim form prescribed for each week (R-0042) provides:

“I claim benefits under the Utah Employment Security Law and certify that my statements on this claim are true and correct. I know the law provides penalties for false statements. **THIS CLAIM MUST BE PERSONALLY SIGNED BY THE CLAIMANT.**”

At the time appellant commenced filing claims for unemployment compensation benefits he attended a slide presentation at the office of the Department during which his rights, duties, and legal responsibilities were fully explained, including the legal necessity that he personally had to complete and sign each weekly claim. (R-0019). He also was presented with a handbook containing similar information. (R-0020). Appellant had no mental or physical handicap that prevented him from completing and signing his claims. (R-0023). He could read and write. (R-0021). Rights under the unemployment compensation provisions of the Employment Security Act come into being only when a claim is filed and the person so claiming meets the statutory and regulatory requirements. The several states administering the unemployment compensation laws are governed by the principle that an application or claim for benefits under the unemployment compensation statutes must be *filed* and it must comply with all the statutory requirements

and rules and regulations prescribed under authority of the statute by the administrative agency.

In the case of *1 re Jullin*, 158 P. 2d 319, resolving statutory language similar to the language in this case, the Court said:

“Since in this case Jullin did not file a claim in accordance with the provisions of the Unemployment Compensation Act nor conform to the Commission’s regulations herein stated, and since he did not establish facts necessary for unemployment compensation benefits, his purported claim never attained the proportions of a complete, valid claim. As to him, therefore, the Act furnished no relief and accorded him no benefits on the claim involved in this proceeding.”

The right to unemployment compensation is founded upon the statute, not upon common law. *MacVeigh vs. Division of Unemployment Compensation*, 19 Wash. 2d 283, 142 C 2d 900:

“The Unemployment Compensation Act is in nature and purpose similar to the Workmen’s Compensation Act as to which we have repeatedly held that the rights and remedies thereunder are purely statutory. (Citing cases.)

“While the Unemployment Compensation Act is remedial in character and by its express terms enjoins a liberal construction of its provisions for the purpose of reducing voluntary unemployment and the suffering caused thereby to a minimum, nevertheless those who claim rights under the act should be held to strict proof of their rights to receive benefits provided by the Act.”

The Court in *re Jullin*, *supra*, in commenting on the right of the Unemployment Compensation Division to waive the express statutory provisions said:

“The effect of what the Division is attempting to do in this instance is to waive the requirements of the statute by accepting an incomplete and invalid claim and to establish a potential basis upon which an individual shown to be immediately ineligible to benefits under the Act may nevertheless in the future receive such benefits payable from a trust fund supplied by the employer . . .”

With unemployment compensation claims as high as 10,000 during a particular week, it is understandable that the Employment Security Act provided specific conditions which had to be met before any right to benefits arise. The right of the individual to receive benefits cannot be established through a third party, and the individual claiming benefits must furnish all information over his own signature which would qualify him to receive benefits.

In recognition of the difficulty involved in the prompt adjudication and payment week by week of thousands of unemployment compensation claims, the Legislature gave to the Commission regulatory powers specifying that claims for benefits must be filed in accordance with regulations adopted by the Commission.

In the case of *Unemployment Compensation Commission v. Barlow*, 2 So. 2d 544, 546, the Court said:

“It is well settled that the Legislature has the power to delegate to an administrative agency the

right to promulgate such rules and regulations as might be necessary to accomplish the purposes for which the agency is created.”

*Abbott v. State* 106 Miss. 34, 63 So. 667; *United States v. Grimand* 220 U. S. 506 31 S. Ct 480, 55 L. Ed. 563; *Marshall Field and Company v. Clark* 143 U. S. 649, 12 Super. 495 36 L. Ed. 294.

Appellant accuses the Department of seizing “upon a technicality of its own devising to deny appellant benefits to which he was clearly entitled.” What appellant is saying is that if anyone, a wife, a child, a neighbor, a friend, or a mere acquaintance signs a claimant’s name to a claim the Department must pay the claim even though it is void per. se. or if the claim is once paid the matter must end there.

The appellant did not file claims for the weeks in question and did not establish any right whatever to be paid. He was at home taking care of house and family and had free access to the claim forms when they came in the mail. He knew and had been advised that he had to file personally in order to establish a right to benefits.

The Department cannot honor claims void on their face or fail to recover amounts paid thereon when the facts become known.

## POINT II

THE DEPARTMENT’S DECISION WAS  
NEITHER ARBITRARY NOR UNREASON-

## ABLE IN REFUSING TO GRANT PAYMENTS TO APPELLANT WHO DID NOT FILE CLAIMS.

Since no valid claims were filed by appellant, the Department has no legal authority to waive repayment of benefits paid.

The Law and Regulations and the claim forms adopted pursuant thereto are neither unreasonable nor arbitrary. They specify to each claimant how he may establish a right to benefits. They are neither confusing nor burdensome any more than are the signatures required on Social Security claims and checks to make them valid and payable. There has been no denial of due process of law when no valid claim has been filed and the failure to file is solely due to appellant who was admittedly unhampered in any respect.

## CONCLUSION

The decision of the Board of Review and of the Appeals Referee should be affirmed.

Respectfully submitted,

Vernon B. Romney  
Attorney General

Fred F. Dremann, Special  
Assistant Attorney General