

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

JOHNNIE WALTERS,

PLAINTIFF-APPELLANT,

-vs-

CIVIL ACTION  
No. 74 005517 AE

KELSEY HAYES WHEEL COMPANY,  
AND MICHIGAN EMPLOYMENT SECURITY  
COMMISSION,

DEFENDANTS-APPELLEES.

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ROBERT J. DINGES (P12799)  
GLOTTA, ADELMAN, DINGES,  
DAVIS & RILEY, P-C.  
ATTORNEYS FOR APPELLANT

JOHN HAYES (P14767)  
LACEY & JONES  
ATTORNEYS FOR APPELLEE.  
KELSEY-HAYES WHEEL Co.

FRANK J. KELLEY, ATTORNEY  
GENERAL OF MICHIGAN  
By: GEORGE M. BLATY (P10879)  
ATTORNEYS FOR APPELLEE, M-E-S-C.

MEMORANDUM

THIS IS AN APPEAL FROM A DECISION BY THE MICHIGAN EMPLOYMENT  
SECURITY APPEAL BOARD.

THE FOLLOWING FACTS ARE NOT IN DISPUTE:

PLAINTIFF-APPELLANT, HEREINAFTER REFERRED TO AS "CLAIMANT,"  
ON JUNE 13, 1967, WAS DISCHARGED BY DEFENDANT-APPELLEE KELSEY-HAYES WHEEL  
COMPANY, HEREINAFTER REFERRED TO AS "EMPLOYER."

CLAIMANT FILED A CIVIL RIGHTS COMPLAINT ON JULY 20, 1967 AND  
APPLIED FOR WORKERS COMPENSATION ON JULY 30, 1967.

ON DECEMBER 5, 1967, CLAIMANT WAS FOUND TO BE ELIGIBLE FOR  
WORKERS UNEMPLOYMENT BENEFITS FOR THE PERIOD JULY 30, 1967 THROUGH DECEMBER  
23, 1967. HE RECEIVED \$1,260.00.

ON SEPTEMBER 29 1972 CLAIMANT AND EMPLOYER SETTLED THE CIVIL RIGHTS CLAIM BY A STIPULATION WHICH PROVIDED THAT THE EMPLOYER PAY TO THE CLAIMANT BACK PAY TOTALING \$9897.75

THE TRANSCRIPT OF THE PROCEEDINGS BEFORE THE REFEREE ON FEBRUARY 28, 1973, MAKES IT CLEAR THAT THE SETTLEMENT OF \$28,609.31 SPECIFICALLY INCLUDED \$9,897.75 AS BACK PAY FOR THE TIME WHICH CLAIMANT HAD DRAWN UNEMPLOYMENT.

ON OCTOBER 30, 1972, EMPLOYER NOTIFIED THE MESO OF THE STIPULATED SETTLEMENT AND REQUESTED A REDETERMINATION OF CLAIMANT'S ELIGIBILITY FOR BENEFITS.

THE COMMISSION HELD THAT INASMUCH AS MORE THAN ONE YEAR HAS ELAPSED SINCE THE TIME THE BENEFIT PAYMENTS WERE PAID, THE COMMISSION LACKED JURISDICTION TO REDETERMINE CLAIMANT'S ELIGIBILITY.

THE REFEREE REVERSED THE COMMISSION.

CLAIMANT WAS HELD TO BE INELIGIBLE FOR THE BENEFITS HE HAD RECEIVED FOR THE PERIOD JULY 30, 1967 THROUGH DECEMBER 23, 1967 AND WAS ORDERED TO REPAY THE COMMISSION \$1260.00.

A REVIEW OF THE TRANSCRIPT OF THE FEBRUARY 28, 1973 PROCEEDINGS BEFORE REFEREE DONALD H. MURCH FULLY SUPPORTS HIS FINDING OF FACTS AND REASONS FOR HIS DECISION OF AUGUST 24, 1973.

THIS COURT AFFIRMS THE DECISION OF THE APPEAL BOARD DATED FEBRUARY 13, 1974 BASED UPON THE FACTS AND FOR THE REASONS SET FORTH IN THE DECISION OF THE LEARNED REFEREE.

/s/ JOSEPH A. MOYNIHAN, JR.  
JOSEPH A. MOYNIHAN, JR.  
CIRCUIT JUDGE

FILED: JAN 31, 1980