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

KATHLEEN A. GILLETTE, et al,
Appellants,

File #79-017594

vs.

OPINION BY THE COURT

JACKSON PUBLIC SCHOOLS and
MICHIGAN EMPLOYMENT SECURITY
COMMISSION,

Appellees.

Plaintiffs-Appellants in this case claim unemployment benefits as employees of the Jackson Public Schools. All, with the exception of one, are teachers.

Claimants worked for the Jackson Public Schools through the 1975-76 school year which ended June 9, 1976. The 1976-77 school year was scheduled to commence on Monday, September 6, 1976 which was Labor Day and a paid employee holiday. However, because of the defeat of a school millage election, schools did not reopen until September 20, 1976. During the previous three academic years claimants had worked during the week of Labor Day and had been paid for the full week, although Labor Day itself was a holiday.

Claimants' applications for Unemployment benefits for the week containing Labor Day were denied by the Michigan Unemployment Security Commission under Sections 27(i)(2) and (4) of the Michigan Employment Security Act (MSA § 17.529)(i)(2) and (4).

Sub-section (i)(2) provided:

"Benefits based on service for a school district . . . shall not be paid to an individual for a week of unemployment within a denial period, as defined in this sub-section, if the individual normally would not perform services during the period."

and sub-section (i)(4) provided:

"A 'denial period' for the purposes of this sub-section is . . . a period between two successive

academic years . . ."

Appellees base their position on Section 50(a) of the Act. (MSA § 17.554(a)) which provides:

"'Week' means calendar week, ending at midnight Saturday. . ."

And Appellees argue that pursuant to Section 50(a) and then existing commission procedures, compensable weeks for unemployment benefits ran from Sunday through Saturday and if an individual was disqualified for one day of the week, he was disqualified for the entire week.

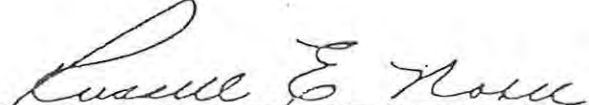
Appellees narrow interpretation of the Statute does not carry out the Declaration of Policy of the Act contained in Section 2 (MSA § 17.502) nor does it comply with the numerous cases cited in Appellants' brief holding that the Act should be liberally construed to favor rather than deny benefits when claimants are unemployed through no fault of their own.

Appellees position does not square with its own release which states:

"Benefits may also be paid chargeable to the educational institution for a week(s) in a denial period if the individual was separated under non-disqualifying circumstances more than seven calendar days prior to the end of the academic year or term, or more than seven calendar days prior to the start of a holiday recess or vacation."

The Court recognizes that the administrative expertise of the Commission must be afforded due deference. The position of the dissenters in the 3-2 decision of the Board of Review must also be considered by the Court when it is in accord with the Opinion of the Court and carries out the manifest intent of the Legislature.

Therefore, an order may enter reversing the decisions by the Michigan Employment Security Commission Board of Review and awarding Appellants benefits for the week ending September 11 1976.


Russell E. Noble, Circuit Judge

Dated: July 14, 1980.