

SUPREME COURT OF OREGON

Sherry Zottola v. Three Rivers School District and Fair Dismissal Appeals Board

342 Or. 118 (2006) · No. S52944 · Decided December 21, 2006

SUMMARY

The Oregon Supreme Court held that the Fair Dismissal Appeals Board lacked authority under ORS 342.905(7) or other applicable statutes to offset unemployment compensation benefits against a wrongfully dismissed teacher's back-pay award. The court reversed the Court of Appeals and remanded the matter to the Board for modification of its order.

CASE DETAILS

COURT	Supreme Court of Oregon
WRITING FOR THE COURT	Gillette, J.; De Muniz, Chief Justice; Carson, J.; Durham, J.; Balmer, J.
JURISDICTION	Oregon
DECIDED	December 21, 2006
DOCKET	S52944
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Petition for review of a Court of Appeals decision affirming an order of the Fair Dismissal Appeals Board concerning the offset of unemployment compensation benefits against a back-pay award.
STANDARD OF REVIEW	The court reviewed the legal question of FDAB's statutory authority to offset unemployment compensation against back pay.
PRECEDENTIAL VALUE	Published Oregon Supreme Court opinion; precedential.
PARTIES	Sherry Zottola v. Three Rivers School District, Fair Dismissal Appeals Board

TOPICS

- judicial review of agency action
- administrative law
- wrongful termination
- unemployment benefits
- statutory interpretation

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether ORS 342.905(7), or any other statute, authorizes the Fair Dismissal Appeals Board to offset unemployment compensation benefits received by a wrongfully dismissed teacher against the teacher's back-pay award.
2. Whether the district's status as a reimbursing employer, and its dollar-for-dollar payment to the unemployment compensation system, changes the analysis.

HOLDINGS

1. The Fair Dismissal Appeals Board lacks authority under ORS 342.905(7) or any other applicable statute to offset unemployment compensation benefits received by a wrongfully dismissed teacher against the teacher's back-pay award.
2. The district's status as a reimbursing employer and its dollar-for-dollar payment to the unemployment compensation system do not authorize an offset because the unemployment benefits were provided by the Employment Department, not by the district.

KEY QUOTATIONS

“For the foregoing reasons, we conclude that FDAB does not have authority under ORS 342.905(7) or any other statute of which we are aware to order an offset to a back-pay award under that statute in the amount of certain unemployment compensation benefits that a wrongfully dismissed employee received after dismissal.”

“Unemployment compensation benefits are not wages; they are not payments for labor or services.”

FACTUAL BACKGROUND

Three Rivers School District dismissed teacher Sherry Zottola on August 6, 2001. FDAB determined that the dismissal was unlawful, ordered her reinstatement, and later addressed the amount of back pay owed. Zottola received unemployment compensation after her dismissal, and the district sought to reduce the back-pay award by the amount the Oregon Employment Department billed the district for those benefits.

PROCEDURAL HISTORY

The school district dismissed Zottola, a teacher, and the Fair Dismissal Appeals Board determined that the dismissal was unlawful and ordered her reinstatement. The Court of Appeals affirmed that order without opinion. On remand proceedings concerning the amount of back pay, FDAB permitted the district to offset certain unemployment benefits against the award, and the Court of Appeals affirmed. The Oregon Supreme Court allowed review, reversed the Court of Appeals, and remanded the FDAB order for modification.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the Court of Appeals and remand the Fair Dismissal Appeals Board's order for modification consistent with the opinion, removing the unauthorized offset of unemployment compensation benefits from Zottola's back-pay award.

CASES CITED

- Zottola v. Three Rivers School Dist., 202 Or. App. 235, 120 P.3d 1255 (2005)
- Zottola v. Three Rivers School Dist., 188 Or. App. 489, 72 P.3d 684 (2003)
- Filter v. City of Vernonia, 95 Or. App. 550, 770 P.2d 83 (1989)
- German Auto Parts v. Bureau of Labor and Industries, 111 Or. App. 522, 826 P.2d 1026 (1992)
- Seibel v. Liberty Homes, Inc., 305 Or. 362, 752 P.2d 291 (1988)

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