

SUPREME COURT OF COLORADO

Mountain States Telephone & Telegraph Co. v. Department of Labor
& Employment

197 Colo. 335 (1979) · Decided April 2, 1979

SUMMARY

The Colorado Supreme Court held that a claimant who resigned to move to California with her husband was subject to the reduced-benefit provision governing relocation, rather than the provision authorizing a full award for otherwise-unavoidable unemployment. The court reversed the court of appeals and Industrial Commission and remanded for further proceedings consistent with its opinion.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Chief Justice Hodges
JURISDICTION	Colorado
DECIDED	April 2, 1979
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The employer sought review of an unemployment-compensation award granted by the Industrial Commission and affirmed by the Colorado Court of Appeals. The Colorado Supreme Court granted certiorari.
STANDARD OF REVIEW	Statutory interpretation and review of whether the Industrial Commission acted within its statutory authority.
PRECEDENTIAL VALUE	Published opinion; precedential Colorado Supreme Court decision.
PARTIES	Mountain States Telephone & Telegraph Co. v. Department of Labor & Employment

TOPICS

- unemployment benefits
- statutory interpretation
- administrative law

PRACTICE AREAS

- employment law
- unemployment benefits
- administrative law

QUESTIONS PRESENTED

1. Whether the Industrial Commission had statutory authority to award full unemployment benefits under section 8-73-108(6)(b)(VI) when the claimant's separation was specifically covered by section 8-73-108(5)(d), which required a reduction of benefits.
2. Whether the court needed to decide whether a married woman who leaves employment to relocate with her husband is unavoidably unemployed under section 8-73-108(6)(b)(VI).

HOLDINGS

1. The Industrial Commission lacked statutory authority to award full benefits under subsection 8-73-108(6) because that subsection applied only when a claim was not specifically covered by another provision, and the claimant's relocation was specifically covered by subsection 8-73-108(5)(d).
2. The claim could not be supported on a marital-obligation ground because the marital-obligation provision had been declared unconstitutional and was subsequently deleted from the statute.

KEY QUOTATIONS

“Section 8-73-108(6) stated explicitly that the subsection was only applicable where “the division determine[d] that a claim for benefits was not specifically covered under other provisions of this section.””
(197 Colo. at 337)

“Accordingly, the court of appeals and the Industrial Commission erred in finding that respondent was entitled to a full award of benefits under subsection (6), rather than a reduced award under subsection (5).”
(197 Colo. at 337)

FACTUAL BACKGROUND

The claimant, a 38-year-old married mother of three, resigned from Mountain Bell on July 7, 1976, to accompany her husband to California after he obtained employment there. She applied for unemployment compensation under the Colorado Employment Security Act. Although her move was not prompted by health reasons or by her own job prospects, the Industrial Commission awarded her full benefits.

PROCEDURAL HISTORY

The claimant resigned to move with her husband to California and applied for unemployment compensation. The Industrial Commission granted her a full award, and the Colorado Court of Appeals affirmed. The Colorado Supreme Court reversed and returned the case to the court of appeals for remand consistent with its opinion.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was returned to the Colorado Court of Appeals for remand consistent with the Supreme Court's opinion, requiring treatment of the claim under the reduced-benefit provision rather than the full-award

provision.

CASES CITED

- Mountain States Telephone and Telegraph Co. v. Department of Labor and Employment, 40 Colo. App. 381, 579 P.2d 651 (1978)
- Briggs v. Industrial Commission, 36 Colo. App. 292, 539 P.2d 1303 (1975)
- Mountain States Telephone and Telegraph Company v. Department of Labor, 38 Colo. App. 298, 559 P.2d 252 (1976)
- Kistler v. Industrial Commission, 192 Colo. 172, 556 P.2d 895 (1976)

OPINION

HODGES, J.

MR. CHIEF JUSTICE HODGES delivered the opinion of the Court. The claimant-respondent is a 38-year-old woman, married, and the mother of three. On July 7, 1976, she resigned from her job with Mountain Bell in order to accompany her husband to California where he had obtained new employment.

The claimant applied for unemployment compensation under the Colorado Employment Security Act, section 8-70-101, et seq., C.R.S. 1973 (1978 Supp.). The Industrial Commission granted a full award of benefits, and the court of appeals affirmed in *Mountain States Telephone and Telegraph Co. v. Department of Labor and Employment*, 40 Colo. App. 381, 579 P.2d 651 (1978).

We granted certiorari and now reverse. In granting a full award of benefits to respondent, the Industrial Commission concluded that under section 8-73-108(6)(b)(VI), C.R.S. 1973 (1976 Supp.) (now repealed), the claimant's separation from employment was "unavoidable" and, therefore, she was entitled to a full award of benefits.

We do not find it necessary to reach the issue of whether a married woman who terminates her employment in order to relocate with her husband is deemed to be unavoidably unemployed within the meaning of section 8-73-108(6)(b)(VI), C.R.S. 1973 (1976 Supp.). Assuming, however, that the respondent fell within the purview of this provision, the commission nevertheless lacked statutory authority to make an award under it.

Section 8-73-108(6) stated explicitly that the subsection was only applicable where "the division determine[d] that a claim for benefits was not specifically covered under other provisions of this section." In the present case, respondent's claim was explicitly covered by section 8-73-108(5)(d) which mandates a reduction of benefits where the claimant's reason for separation is "[m]oving to another area except for health reasons or to accept a better job." Respondent concedes that her move to California was not prompted by health reasons or by job prospects.

Accordingly, the court of appeals and the Industrial Commission erred in finding that respondent was entitled to a full award of benefits under subsection (6), rather than a reduced award under subsection (5). The cases cited by the court of appeals in support of its opinion (*Briggs v. Industrial Commission*, 36 Colo. App. 292, 539 P.2d 1303 (1975), and *Mountain States Telephone and Telegraph Company v. Department of Labor*, 38 Colo.

App. 298, 559 P.2d 252 (1976)), are in-apposite, because they involved claimants who qualified for a “special award” of benefits under the marital obligation section of the statute. Section 8-73-108(7)(a)(I), C.R.S. 1973 (1976 Supp.) (now repealed). Unlike subsection (6), subsection (7) did not contain the requirement that it could not be invoked if the commission determined that the claim was covered under other provisions of section 108.

The marital obligation provision was declared unconstitutional by this court in *Kistler v. Industrial Commission*, 192 Colo. 172, 556 P.2d 895 (1976), and was subsequently deleted from the statute by the general assembly.

Accordingly, a claim for compensation, such as the one requested here, can no longer be supported on a marital obligation ground. The judgment is reversed and the case is returned to the court of appeals for remand to the respondent consonant with this opinion. MR. JUSTICE GROVES, MR. JUSTICE ERICKSON and MR. JUSTICE ROVIRA do not participate.