

SUPREME COURT OF NORTH DAKOTA

Gartner v. Job Service North Dakota

2004 ND 135 (2004) · No. 20040038 · Decided June 30, 2004

SUMMARY

The Supreme Court of North Dakota affirmed a judgment upholding Job Service North Dakota's denial of unemployment benefits to Paul Gartner while he attended vocational school. The court held that reasonable and suitable employment was available to Gartner when he left seasonal employment, and that he did not satisfy the requirements for the vocational-training exception to the student disqualification.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Mary Muehlen Maring; William A. Neumann; Dale V. Sandstrom; Carol Ronning Kapsner; Gerald W. VandeWalle
JURISDICTION	North Dakota
DECIDED	June 30, 2004
DOCKET	20040038
DISPOSITION	affirmed
PROCEDURAL POSTURE	Gartner appealed from a district court judgment affirming Job Service North Dakota's order denying him unemployment benefits while he was enrolled in and attending college.
STANDARD OF REVIEW	The Supreme Court reviews the agency's decision and the record compiled before the agency rather than the district court's decision. It affirms if the agency's factual findings are supported by a preponderance of the evidence, its legal conclusions and order are supported by its findings, its decision complies with law and constitutional requirements, the procedures provided a fair hearing, and the requirements of N.D.C.C. chapter 28-32 were satisfied. The Court does not make independent factual findings or substitute its judgment for the agency's; it asks whether a reasoning mind could reasonably determine that the agency's factual conclusions were supported by the weight of the evidence.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion; precedential.

TOPICS

unemployment benefits administrative law judicial review of agency action statutory interpretation
appellate procedure

PRACTICE AREAS

employment law unemployment benefits administrative law

QUESTIONS PRESENTED

1. Whether an unemployed worker who voluntarily leaves suitable seasonal employment to attend college may receive unemployment benefits under the statutory and regulatory approved-training exception.
2. Whether Job Service's finding that reasonable and suitable work opportunities existed for which Gartner was qualified was supported by a preponderance of the evidence.
3. What standard governs the Supreme Court's review of Job Service's administrative decision.

HOLDINGS

1. The plain language of N.D.C.C. § 52-06-02(6), construed together with the retraining exception in N.D.C.C. § 52-06-01(3)(a) and N.D. Admin. Code § 27-03-08-04, does not permit an unskilled unemployed worker to receive unemployment benefits while enrolled in and attending college regardless of the existence of other unskilled employment opportunities.
2. Job Service's finding that reasonable and suitable employment existed in Gartner's locality, for which he was fitted by training, experience, and physical capabilities, was supported by a preponderance of the evidence.
3. The Court reviews the agency's decision and agency record and does not independently reweigh the evidence or substitute its judgment for the agency's.

KEY QUOTATIONS

“We conclude the plain language of our unemployment compensation law reflects a policy determination that unskilled, unemployed workers are not entitled to unemployment benefits while enrolled at and attending college regardless of other unskilled employment opportunities.” (¶ 7)

“We therefore conclude Job Service's findings are supported by a preponderance of the evidence and support its conclusion that Gartner was not entitled to unemployment benefits while he was enrolled at and attending the North Dakota State College of Science.” (¶ 10)

FACTUAL BACKGROUND

Gartner had worked for five years as a seasonal lawn-sprinkler installer and generally received unemployment benefits outside the installation season. He voluntarily left that employment in August 2002 to attend a small-

engine-repair program at the North Dakota State College of Science. After a subsequent welding job ended, he applied for unemployment benefits while still enrolled in school; Job Service found that suitable seasonal work existed locally and that he did not qualify for the approved-training exception.

PROCEDURAL HISTORY

Gartner applied for unemployment benefits after leaving seasonal lawn-sprinkler installation work to attend a vocational program. Job Service denied benefits, concluding that he was attending school and did not satisfy the requirements for an approved training program. The district court affirmed, and the North Dakota Supreme Court reviewed the agency decision and the record before the agency.

DISPOSITION

affirmed

CASES CITED

- Baier v. Job Service North Dakota, 2004 ND 27, ¶ 6, 673 N.W.2d 923
- North Dakota Dept. of Human Servs. v. Ryan, 2003 ND 196, ¶ 8, 672 N.W.2d 649
- North Dakota Dept. of Human Servs. v. Ryan, 2003 ND 196, ¶ 11, 672 N.W.2d 649