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Meaning of the Term Labor Dispute in the Pennsylvania Unemployment Compensation Law

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MEANING OF THE TERM LABOR DISPUTE IN THE PENNSYLVANIA UNEMPLOYMENT COMPENSATION LAW

What is a "labor dispute" within the meaning of the Pennsylvania Unemployment Compensation Law?[1] The Pennsylvania Superior Court has wrestled with this term in a number of compensation cases, first when it spelled a temporary disqualification (Section 401) for benefits, and later when it became grounds for indeterminate or so-called "permanent" disqualification (Section 402).[2] Two recent cases illustrate the complexity of the problem involved.

Under the terms of the original act as amended in 1942[3] and 1945,[4] if claimant's unemployment was due to a voluntary suspension of work because of an industrial dispute he could obtain benefits but had to undergo a waiting period. Therefore, it might be to claimant's advantage to show that his unemployment was due to an industrial dispute, since otherwise he risked being classified as a voluntary quit (Section 402 b), and denied benefits altogether.

An outstanding case under this phase of the law was *Duquesne Brewing Co. of Pittsburgh v. Unemployment Compensation Board of Review.*[5] (Hereinafter referred to as the Loerlein case.) The claimant (Loerlein) was a member of an independent union which the CIO and AFL raided. The majority of the independent local unions went CIO but claimant's local affiliated with the AFL. Claimant's union then went on strike to compel the employer to recognize it as bargaining agent.

Claimant argued that this was an industrial dispute and that he, therefore, could qualify for benefits at the expiration of the statutory period. He relied on the Superior Court's decision in the *Miller* case[6] where the court said an industrial dispute "does not have to be between employers and employees." It was there held that the dispute could be between the employees and their union or bargaining agent "providing it involves the employer and affects terms or conditions of employment." Loerlein claimed this was such a dispute. The Unemployment Compensation Board of Review agreed with claimant and subjected his claim to the temporary (four weeks) disqualification. On appeal by the employer, contending that claimant should be disqualified during the entire period of his unemployment, the Superior Court reversed the board.

The court said this was a "jurisdictional contest for labor control." Apparently the court was qualifying its broad statement in the *Miller* case. But the court

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1 Act of December 5, 1936, P. L. 2897, 43 P. S. 802.

2 The original Act used the term "industrial dispute" and the amended provision employed the term "labor dispute," but the Superior Court has used these terms interchangebaly. Susquehanna Collieries Co. v. U. C. Board of Review, 137 Pa. Super. 110, 112, 115; Barns v. U. C. Board of Review, 152 Pa. Super. 429, 432.

3 Act of April 23, 1942, P. L. 60, 43 P. S. 802.

4 Act of May 29, 1945, P. L. 1145, 43 P. S. 802.

5 162 Pa. Super. 216, 56 A.2d 269 (1948).

6 152 Pa. Super. 315, 31 A.2d 740 (1943).

goes on to say this case did not present a "single aspect" of an industrial dispute. This addition would seem to weaken considerably the court's previous decision. One may agree that this was a jurisdictional dispute but to say that the factual situation presented not a single aspect of an industrial dispute is saying that a jurisdictional dispute and an industrial dispute are in no way similar or related. That such a clear distinction exists is to be doubted. However, the decision was affirmed by the Supreme Court.[7]

In 1947[8] the legislature changed Section 402 in two respects. (1) The term "labor dispute" was substituted for "industrial dispute."[9] (2) By the more important revision, a claimant was made ineligible for benefits as long as his unemployment was due to a stoppage of work because of a labor dispute, unless he fell under three categories of exemptions.[10]

Westinghouse Electric Corp. v. Unemployment Compensation Board of Review[11] (hereinafter referred to as the *Curcio* case) was the first case to reach the court under the new law. Curcio, the claimant, worked for appellant where an open shop was maintained. The CIO and AFL began to organize the employees and each union requested appellant to grant bargaining rights to it. When the company refused to recognize the CIO, the members of this union went on strike. Curcio, however, was a member of the AFL which had not taken any strike action. He tried to continue to work but was restrained by a massed picket line which threatened to use force against those attempting to enter the plant.

When Curcio presented his claim for benefits, the Unemployment Compensation Board of Review, looking to the court's decision in the *Loerlein* case, concluded that the present facts did not constitute a labor dispute and awarded him benefits since his unemployment was involuntary.

But again the board was reversed. The Superior Court said that these facts clearly showed there *was* a labor dispute and, therefore, claimant was disqualified because he was a member of the same occupational class of workers (production workers) to which the striking CIO employees belonged. The fact that the employer refused to recognize the CIO (except on NLRB certification) was held to make this situation a labor dispute. The court attempted to distinguish this case from the *Loerlein* case by saying that here the interests of both employer and employee were at stake. Were they any less so in the *Loerlein* case? The court goes on to say they never intended to extend the *Loerlein* decision beyond facts

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7 359 Pa. 535, 59 A.2d 913 (1948).
8 Act of June 30, 1947 P. L. 1186, 43 P. S. 802.
9 Note 2, supra.
10 Claimant had to prove (1) he was not participating in or particularly interested in the dispute; (2) he was not a member of an organization participating in or directly interesetd in the dispute; and (3) he was not of the same grade or class of workers of which immediately before commencement of the stoppage there were members employed at the premises at which stoppage occurs, any of whom are participating in or interested in the dispute.
11 68 A.2d 393 (1949).

similar or identical to those found there. On close analysis one finds it difficult to observe any material distinction in the facts. This case seems to present every bit as much of a jurisdictional dispute as did the *Loerlein* case. In both cases the gist of the controversy was that rival unions were competing for bargaining rights.

Furthermore, on the basis of ordinary justice, Curcio would seem to be entitled to benefits since he wanted to work and was prevented from doing so through no fault on his part or on the part of his union.

This decision seems to leave wide open the question of what facts constitute a labor dispute. The *Miller* and *Loerlein* cases were difficult enough to harmonize on their facts but one could at least conclude from reading the latter case that a jurisdictional "labor dispute" was not, in the opinion of the Superior Court, a "labor dispute" in the field of unemployment compensation. The line of distinction between the *Loerlein* and *Curcio* cases, however, is even more tenuous regarding the application of the term "labor dispute" in claims for benefits. Although the court has attempted to harmonize its decisions, there seems to be reason for seriously questioning whether the *Loerlein* case has not, in effect, been overruled. If this is the result, it can probably be ascribed to judicial disapproval of benefit payments in labor dispute cases and the fact that a broad interpretation of the amended labor dispute clause (with its disqualification for the duration of the stoppage) will tend to reduce eligibility for benefits in claims arising out of labor and industrial controversies. As indicative that the court has shifted to a broader application of the term, and to add to the uncertainty of the law on the subject, is the following statement on page 391 of the *Curcio* opinion:

> "The inference is reasonable therefore that the legislature in the present Act did not intend the screening of facts through the mesh of any fixed definition of a labor dispute to determine by a process as simple as that whether a claimant is entitled to unemployment compensation."

One questions the propriety of allowing a law so vital to so many to be so uncertain. It is suggested that legislative clarification of the meaning of the term "labor dispute" in this statute would be to the best interests of employees and employers as well as government agencies and officials administering the law.

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