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2026 VT 37

No. 25-AP-429

Vermont State Colleges

Supreme Court

v.

On Appeal from
Employment Security Board

Department of Labor (Louis Colasanti)

June Term, 2026

Chris Winters, Chair

Kerin E. Stackpole, Stephen D. Ellis, and Colette C. Schmidt of Paul Frank + Collins P.C.,
Burlington, for Appellant.

Charity R. Clark, Attorney General, Samuel B. Stratton, Assistant Attorney General, and
Jared Adler, Special Assistant Attorney General, Montpelier, for Appellee.

PRESENT: Reiber, C.J., Eaton, Waples, Nolan and Drescher, JJ.

¶ 1. **NOLAN, J.** Claimant Louis Colasanti worked for employer Vermont State Colleges as an adjunct professor at Community College of Vermont (CCV). CCV offers courses over three terms each year, spring, summer, and fall. After employer offered him teaching assignments in the 2024 spring and fall terms, but not the summer term, claimant applied for unemployment compensation benefits. The Vermont Department of Labor Employment Security Board granted claimant benefits for the summer term, concluding he was not excluded by the Unemployment Compensation Act, 21 V.S.A. § 1343(c)(1), which directs that “benefits shall not be payable” for an employee of an educational institution for periods of unemployment between academic terms if the employee works in the first term and there is “a contract or reasonable

assurance” that the employee will work for any educational institution in the second of those terms. The Board reasoned that claimant did not have a reasonable assurance of continued employment in the “second successive academic term,” which it identified as the 2024 summer term. Employer appeals, arguing that the Board misconstrued the statutory exclusions. We conclude that claimant’s assurance of a teaching assignment for two regular, but not successive, terms in 2024 rendered him ineligible for benefits under § 1343(c)(1) for the period between the terms. We therefore reverse.

¶ 2. These undisputed facts are derived from the record and the Board’s factual findings. Employer hired claimant as an adjunct professor at CCV. CCV offers classes year-round, dividing the year into fall, spring, and summer trimesters. From 2006 to 2024, claimant worked every year at CCV. Many, but not all, years he taught during all three terms. He did not teach the summers of 2016, 2017, and 2020, and when claimant applied for benefits in May 2024, he had not worked a summer at CCV since 2022. Claimant taught courses in the fall 2023 and spring 2024 trimesters, but, as in 2023, employer did not make him an offer to teach courses in summer of 2024. Claimant had a contract to teach in the spring 2024 trimester and a contract to return for the fall 2024 trimester. Employer notified claimant of his teaching assignments for the spring and summer before the spring term, and it notified him of his fall assignments before fall term.

¶ 3. At the conclusion of the spring 2024 term, claimant filed a claim for unemployment compensation benefits for the weeks ending May 11, 2024, through September 7, 2024. A claims adjudicator denied his claim, finding that claimant had a reasonable assurance of performing services in a similar capacity for his next “regularly scheduled academic term,” fall 2024, even though that term was not successive to the spring term.

¶ 4. Claimant appealed, and an Administrative Law Judge (ALJ) affirmed. The ALJ found an “established pattern of [claimant] not performing services during the summer semester”

and concluded that claimant had a reasonable assurance of returning in the “ensuing academic term.”

¶ 5. Claimant then appealed to the Employment Security Board, which reversed the ALJ’s decision.¹ In the Board’s view, summer 2024 was successive to spring 2024, and because employer did not reasonably assure claimant that he could teach during the summer, he was eligible for benefits during that period. The Board determined that claimant’s situation did not fall within the statutory language excluding “any week of unemployment commencing during the period between two successive academic years or terms.” 21 V.S.A. § 1343(c)(1). The Board did not, however, analyze or address the statutory language excluding benefits “for any week of unemployment . . . between two regular but not successive terms,” when an employer and employee have agreed to such a schedule. Id.

¶ 6. The Board likened these facts to a hypothetical scenario outlined in the U.S. Department of Labor’s Unemployment Insurance Program Letter No. 5-17 (Program Letter) concerning interpretation of the term “reasonable assurance” in § 1343(c)(1)’s counterpart section of the Federal Unemployment Tax Act. The scenario involved an adjunct professor learning she would not be offered summer courses even though she had taught all four academic terms for five years. The vignette ends with the professor getting summer unemployment benefits because she had neither reasonable assurance to work in the successive summer term, nor a “specific agreement” to provide services between regular nonsuccessive terms. From that hypothetical—and because, in its view, claimant here had not filed “for a period ‘between academic terms[,]’ but rather during an academic term for which claimant was not retained to provide services for the

¹ The Board initially remanded to the ALJ on evidentiary grounds not relevant here. The ALJ addressed the evidentiary concerns and reaffirmed its original decision. Claimant once again appealed the ALJ’s decision on the merits.

educational institution”—the Board deemed claimant eligible and awarded him summer 2024 employment benefits.

¶ 7. On appeal, employer argues that the statute creates a clear exclusion from benefits eligibility for an educator in claimant’s circumstances. Employer maintains that, if there is an agreement between an educator and an employer for a regular nonsuccessive term schedule, and the educator has a reasonable assurance of employment in the next “regular but not successive term[],” then the educator is not entitled to benefits for weeks without work in the intervening term. 21 V.S.A. § 1343(c)(1). From employer’s perspective, this was precisely claimant’s employment arrangement in 2024 when he had assurances that he would teach at CCV in the spring and fall, but not the summer. Employer contends that claimant had an agreement to teach in the nonsuccessive spring and fall 2024 terms, highlighting claimant’s history of working spring and fall terms, but not always summers, and his teaching contracts for the spring and fall of 2024. Additionally, employer asserts that the Board erred in relying on the Program Letter because its hypothetical scenario involved facts readily distinguishable from claimant’s situation.

¶ 8. Our review of the Board’s decisions generally involves a deferential standard, with the Board’s decisions “entitled to great weight on appeal.” Cook v. Dep’t of Emp. & Training, 143 Vt. 497, 501, 468 A.2d 569, 571 (1983). However, application of this deferential standard of review is appropriate only where the decision at issue falls within the scope of the Board’s expertise. Windham Cnty. Sheriff’s Dep’t v. Dep’t of Lab., 2013 VT 88, ¶ 6, 195 Vt. 1, 86 A.3d 410 (adopting de novo standard of review because case involved statutory construction only). The Board’s expertise lies in factual findings and its employment-specific knowledge. Id. Accordingly, the applicable standard of review, while deferential in some respects, does not bind this Court to “an erroneous construction of the law.” Great N. Constr., Inc. v. Dep’t of Lab., 2016 VT 126, ¶ 12, 204 Vt. 1, 161 A.3d 1207 (quotation omitted); see Fleece on Earth v. Dep’t of Emp. & Training, 2007 VT 29, ¶ 4, 181 Vt. 458, 923 A.2d 594 (“We must uphold the Board’s judgment

absent a clear showing that it is mistaken.”). Because this appeal involves a question of statutory construction not involving “the Board’s factual findings or employment-specific knowledge . . . , our review is de novo.” Chittenden Cnty. Sheriff’s Dep’t v. Dep’t of Lab., 2020 VT 4, ¶ 9, 211 Vt. 377, 228 A.3d 85 (citation omitted); see Windham Cnty. Sheriff’s Dep’t, 2013 VT 88, ¶ 6 (“Our standard of review is based . . . on the nature of the [Board’s] expertise and the appropriateness of paying deference to it.” (quotation omitted)).

¶ 9. Subject to these limiting principles, we will uphold the Board’s legal conclusions if they are reasonably supported by its factual findings. Beasley v. Dep’t of Lab., 2018 VT 104, ¶ 9, 208 Vt. 433, 199 A.3d 553. The Board’s factual findings will be upheld unless they are “clearly erroneous.” Id. (quotation omitted).

¶ 10. To be eligible for unemployment benefits in Vermont, a claimant must meet certain threshold conditions set forth in the Unemployment Compensation Act. 21 V.S.A. § 1343(a).² The Act, however, carves out from benefits eligibility three time periods for employees of educational institutions—even if those employees would otherwise meet the foundational criteria. Section 1343(c)(1) provides:

With respect to services performed in an instructional, research, or principal administrative capacity for an educational institution, benefits shall not be payable on the basis of such services for any week of unemployment commencing during the period between two successive academic years or terms (or, when an agreement provides instead for a similar period between two regular but not successive terms, during such period) or during a period of paid sabbatical leave provided for in the individual’s contract, to any individual if the individual performs such services in the first of the academic years or terms and if there is a contract or reasonable assurance that the individual will perform services in any such capacity for any educational institution in the second of the academic years or terms.

(Emphasis added.)

² We do not address these requirements because there is no dispute that claimant satisfied them.

¶ 11. The Act seeks to reduce the economic stress of involuntary unemployment and “to assist those workers who become jobless for reasons beyond their control.” Kelley v. Dep’t of Lab., 2014 VT 74, ¶ 8, 197 Vt. 155, 101 A.3d 895 (quotation omitted). As a “remedial law,” and “having benevolent objectives, [the Act] . . . must be given liberal construction.” Fleece on Earth, 2007 VT 29, ¶ 5. However, even a “liberal construction does not allow us to stretch the language beyond legislative intent.” Elkins v. Microsoft Corp., 174 Vt. 328, 331, 817 A.2d 9, 13 (2002). A claimant should not be deprived of benefits “unless the law clearly intends such an exclusion.” Kelley, 2014 VT 74, ¶ 8 (quotation omitted).

¶ 12. In our endeavor to “give effect to the intent of the Legislature . . . we first look to the plain, ordinary meaning of the statute.” Sirloin Saloon of Shelburne, Rutland, & Manchester, Inc. v Dep’t of Emp. & Training, 151 Vt. 123, 126, 558 A.2d 226, 228 (1989) (citation omitted). “Where the meaning of a statute is plain and unambiguous, there is no necessity for construction, and the statute must be enforced according to its terms.” Riddel v. Dep’t of Emp. Sec., 140 Vt. 82, 86, 436 A.2d 1086, 1088 (1981).

¶ 13. Under § 1343(c)(1), unemployment benefits are not payable to educators during three different time periods, only two of which are relevant here: (1) the “period between two successive academic years or terms,” and (2) “when an agreement provides instead for a similar period between two regular but not successive terms, during such period.”³ In either case, an educator is precluded from receiving benefits “if the [educator] performs such services in the first of the academic years or terms and if there is a contract or reasonable assurance that the [educator] will perform services in any such capacity for any educational institution in the second of the academic years or terms.” 21 V.S.A. § 1343(c)(1). The Board focused on the first exclusion and

³ The third period excluded from benefits eligibility is “a period of paid sabbatical leave provided for in the individual’s contract” taken under these circumstances. 21 V.S.A. § 1343(c)(1).

determined that claimant was entitled to benefits because he was not going to work for two successive terms when he applied for benefits. We need not decide whether that conclusion is reasonable because the Board’s analysis overlooked or misapprehended the second exclusion, which precludes benefits for the period between two regular but not successive academic terms when the educator’s employment in the second term is contracted or reasonably assured and there is an agreement for such employment. Id.

¶ 14. That provision bars dispensation of summer 2024 benefits where, as here, an educational institution and its employee have agreed that the employee will work for two nonconsecutive regular terms—in claimant’s case, the spring and fall of 2024. See Agreement, Black’s Law Dictionary (12th ed. 2024) (defining “agreement” as “a manifestation of mutual assent by two or more persons”); Successive, id. (defining “successive” as “following in order; consecutive”); see also In re Villeneuve, 167 Vt. 450, 458, 709 A.2d 1067, 1072 (1998) (“We must construe a statute according to the ordinary meaning of the words the [L]egislature has chosen.”). The parties agree that claimant had a contract and reasonable assurance that he would return to perform services in the fall 2024 term, but, like the year before, no contract or assurance to teach summer classes that year. Likewise, there is no dispute that claimant performed services for employer in spring 2024, the first of his two regular but not successive teaching terms that year, and that he taught in fall 2024 as contracted with employer. Because CCV divides its academic calendar into three trimesters, the summer trimester of 2024, when claimant did not work, was a “similar period” between its two other regular terms that year, spring and fall, when he did work. 21 V.S.A. § 1343(c)(1). Therefore, claimant’s employment situation in 2024 fit the paradigm the Legislature’s plain language contemplated in the second benefits carveout period. See id. (stating that “benefits shall not be payable . . . for any week of unemployment . . . between two regular but not successive terms” when agreement provides for such arrangement).

¶ 15. In support of the Board’s decision, the Department maintains that § 1343(c)(1)’s second exclusion applies only when there is an “explicit agreement” between a claimant and an employer for denial of benefits under the second exclusion—without elaborating on any specifics including what it believes the explicit agreement should contain or whether it should be reduced to writing. The statute, however, calls only for an “agreement,” *id.*, and “we will not read words into a statute that are not there,” State v. Hale, 2021 VT 18, ¶ 14, 214 Vt. 296, 256 A.3d 595 (explaining that “[i]t is a well settled principle of statutory construction that we will not read words into a statute that are not there, unless it is necessary in order to make [the statute] effective” (quotation omitted)).

¶ 16. In any event, these facts suffice to establish the requisite “agreement” that claimant would teach for two regular nonsuccessive terms in 2024. The parties agree that claimant had contracts to teach in the spring and fall—but not the summer—terms and that claimant went into the spring term knowing that he had not been offered summer courses. This was the same employment configuration claimant had the year prior and in other years over the course of his tenure with CCV. The record, therefore, evinces the “manifestation of mutual assent” by the parties necessary to establish an “agreement” as that term is commonly understood and defined. Agreement, Black’s Law Dictionary, *supra*; see 21 V.S.A. § 1343(c)(1).

¶ 17. The Board also misapplied the hypothetical scenario set forth in the Program Letter. The language of § 1343(c)(1) “directly correlates” to § 3304(a)(6)(A) of the Federal Unemployment Tax Act. Beasley, 2018 VT 104, ¶ 6. The Program Letter provides the U.S. Department of Labor’s definition of the terms “contract” and “reasonable assurance” and, as relevant here, employs hypotheticals to illustrate the application of each term in different scenarios. This Court has held that “the Program Letter is binding on the [Vermont Department of Labor] absent any express statutory provision to the contrary,” because federal law mandates that states conform with its provisions. *Id.* ¶ 6 n.2.

¶ 18. The circumstances in the present case, however, differ markedly from the Program Letter’s example scenario. See supra, ¶ 6. In that hypothetical, the adjunct instructor had worked year-round—across four academic terms—for five years before her employer denied her summer courses at the end of the spring term. The instructor and the college did not have a specific agreement that she would perform services in regular nonsuccessive terms. Instead, contrary to all previous years, the instructor had no reasonable assurance of employment by the college in the summer.

¶ 19. Claimant’s situation is clearly distinct in that he did not even teach classes during the previous summer term at CCV, let alone every summer term without interruption for five years. Claimant also knew when he filed for benefits that he had a reasonable assurance that he would work at CCV in the fall 2024 term, immediately after the summer interval—just as he had the previous year and in a smattering of other academic years. Moreover, unlike in the hypothetical in which the instructor discovered only at the end of the spring term that she would not be teaching during the summer, claimant testified that employer notified him before the spring term of his teaching assignments for the spring and summer terms. Accordingly, claimant knew in advance—before the start of the spring term—that he would not be working during the summer term.

¶ 20. Accordingly, the Board misconstrued the statute in concluding claimant was eligible for unemployment benefits for the summer 2024 term. The Legislature precluded educators like claimant from receiving unemployment benefits for a summer term when there is reasonable assurance of employment in the immediately adjacent trimesters and the educator agreed to that schedule. See Kelley, 2014 VT 74, ¶ 8 (explaining that deprivation of benefits is warranted only when “law clearly intends such an exclusion” (quotation omitted)). Denial of benefits in these circumstances—where claimant had an opportunity to plan around his summer recess and look for summer work—aligns with the purpose of the statute to “alleviate the economic disability and distress which results from involuntary unemployment.” Riddel, 140 Vt. at 86, 436

A.2d at 1088; Kelley, 2014 VT 74, ¶ 8 (explaining that Act’s purpose is “to assist those workers who become jobless for reasons beyond their control” (quotation omitted)). The Board’s award must be reversed because it rested on an unreasonable interpretation of § 1343 and, specifically, a failure to appreciate the applicability of the second statutory exclusion to the summer between claimant’s teaching semesters in 2024. See Great N. Constr., Inc., 2016 VT 126, ¶ 12 (“[W]hile the Court owes deference to the Board, we are not bound by an erroneous construction of the law.” (quotation omitted)).

Reversed.

FOR THE COURT:

Associate Justice