

# Order

Michigan Supreme Court  
Lansing, Michigan

June 23, 2023

Elizabeth T. Clement,  
Chief Justice

165177

Brian K. Zahra  
David F. Viviano  
Richard H. Bernstein  
Megan K. Cavanagh  
Elizabeth M. Welch  
Kyra H. Bolden,  
Justices

APRILLE MARTIN,  
Claimant-Appellee,

v

SC: 165177  
COA: 358711  
Genesee CC: 2020-115053-AE

MICHIGAN UNEMPLOYMENT INSURANCE  
AGENCY,  
Appellant,

and

MSE BRANDED FOODS OF MICHIGAN,  
Respondent-Appellee.

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On order of the Court, the application for leave to appeal the November 22, 2022 judgment of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we AFFIRM in part and REVERSE in part the judgment of the Court of Appeals, and REINSTATE the determination of the Unemployment Insurance Appeals Commission (the Commission).

We affirm that the lower courts had jurisdiction to decide this matter under MCL 421.38(1), which provides the courts with broad powers of review of any “questions of fact and law on the record made before the administrative law judge [ALJ] and the Michigan compensation appellate commission”<sup>1</sup> and to “make further orders in respect to [the Agency’s decisions] as justice may require . . . .”

However, under the Michigan Employment Security Act (MESA), unemployment benefits are owed to those who are “eligible and qualified.” MCL 421.51. MCL 421.27(d) states, in relevant part, that “[f]or each eligible individual filing an initial claim on or after January 15, 2012, not more than 20 weeks of benefits or less than 14 weeks of benefits are

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<sup>1</sup> The Michigan Compensation Appellate Commission has been replaced, in relevant part, by the Unemployment Insurance Appeals Commission. Executive Reorganization Order No. 2019-13.

payable to an individual in a benefit year.”<sup>2</sup> MCL 421.28 sets forth non-monetary eligibility requirements. MCL 421.29 sets forth factors which lead to disqualification from benefits—including where an individual “[l]eft work voluntarily without good cause attributable to the employer or employing unit.”

In the present case, the Commission determined that Martin was *not* disqualified for two weeks of benefits under MCL 421.29 based on the time between her termination and her last intended day of employment but that she *was* disqualified for benefits after those two weeks. Based on the facts before the ALJ and the Commission, although her resignation would have disqualified her for benefits, her termination prior to the expiration of her notice date entitled her to unemployment benefits during those intervening weeks. See *Stephen’s Nu-Ad, Inc v Green*, 168 Mich App 219, 223-225 (1988).

The Genesee Circuit Court and Court of Appeals in this case treated “eligibility” and “qualifications” as synonymous terms under the MESA. They are not. The decisions below characterize the Commission’s decision as finding no *eligibility* beyond two weeks. But the Commission found Martin *disqualified* after two weeks based on her voluntarily quitting her job. The Commission never addressed eligibility whatsoever and only modified the ALJ’s decision with respect to disqualification. Moreover, the lower courts apparently read MCL 421.27(d) as an affirmative statutory grant of 14 weeks of benefits *any time* an individual is determined to be eligible.<sup>3</sup> It is not. MCL 421.27(d) sets forth the benefit-week range an individual is able to receive *in a benefit year* assuming they remain eligible and qualified during the pendency of their claim. Thus, where a claimant did not voluntarily quit or is not otherwise disqualified from receiving benefits at the outset, the claimant may not be deemed to have exhausted their benefit weeks until *at least* 14 weeks have passed if they remain eligible and qualified.

The Commission’s statutory interpretation and its application of *Stephen’s Nu-Ad* were correct as applied to this case. Assuming without deciding that *Stephen’s Nu-Ad* is correct, the unchallenged facts set forth by the ALJ and Commission were that Martin quit over changes in the dress code which her manager told her were not up for discussion. Thus, Martin’s testimony to the ALJ that she would have been interested in maintaining

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<sup>2</sup> While it does not impact this matter, the Agency’s briefing adjusts the maximum possible weeks for the relevant period from 20 to 26, which reflects changes made to MCL 421.27(d) in response to the disruptions caused by COVID-19. We cite to the same language as was relied on by the lower courts and included in briefing to those courts.

<sup>3</sup> The lower courts state that their opinions do not upset the Unemployment Insurance Agency’s ability to find Martin “ineligible” for benefits going forward, but those pronouncements are incompatible with their finding that she is “entitled to” 14 weeks of benefits and that she was not disqualified from receiving benefits after two weeks.

her employment had her concerns been addressed did not mean the courts could “only speculate as to whether the claimant in fact intended to leave work” because her concerns were nonnegotiable on the part of MSE Branded Foods. *Stephen’s Nu-Ad*, 168 Mich App at 225.

We thus reverse the Court of Appeals and reinstate the Commission’s findings.

We do not retain jurisdiction.



s0620

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 23, 2023

Handwritten signature of Larry S. Royster in black ink.

Clerk