

INDUSTRIAL COMMISSION:
UNEMPLOYMENT COMPENSATION:

Employee who retires under union contract not eligible for unemployment compensation.

OPINION NO. 190

May 23, 1968

Honorable James W. Williams
State Representative
Missouri House of Representatives
2010 North 4th Street
St. Joseph, Missouri 64505



Dear Representative Williams:

On February 12, 1968, you requested an opinion from this office as follows:

"Per our telephone conversation this date I am writing for an opinion from your office. If a person is under a union contract with a compulsory retirement clause at age 65, if he is compelled to retire, can he draw his unemployment compensation before signing up for Social Security? My feeling is that any man who is forced to retire should be entitled to draw his unemployment insurance first, then sign up for his Social Security and be repaid back to his sixty-fifth birthday. I believe that the money for his unemployment insurance is paid into his account by the company and because the contract forces him to retire, this is money due him and if not paid reverts back to the company account."

As we understand the facts that you have submitted, the employee in question is working under union contract which requires him to retire from that employment at the age of 65.

Section 288.020, RSMo, provides that as a guide to the interpretation and application of a Missouri Employment Security Law, the public policy of this state requires compulsory setting aside of employment reserves to be used for the benefit of persons unemployed through no fault of their own.

Honorable James W. Williams

Section 288.050, RSMo, provides that an employee who leaves his work voluntarily without good cause attributable to his work or to his employer shall be disqualified for benefits until he has earned wages equal to 10 times his weekly benefit amount.

Section 288.040, Mo. Supp., provides that in order for an employee to be eligible for unemployment benefits he must be registered for work in the employment office and be able, available, actively and earnestly seeking work. It further provides that he shall be ineligible for unemployment benefits for any week for which he is receiving or has received remunerations from old age assistance benefits under Title II of the Social Security Act if it exceeds his weekly benefit amount of unemployment compensation he receives.

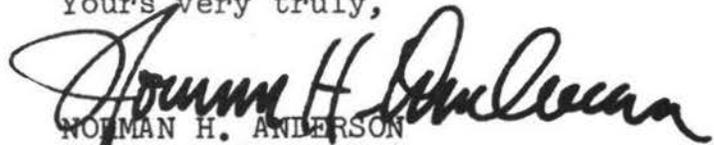
A contract between the employer and the union is as binding upon each member of the union as though each individual member personally entered into the agreement with the employer. *Kilgore v. Industrial Commission of Missouri*, 337 S. W. 2d 91 and *Dubinsky Brothers, Inc. v. Industrial Commission of Missouri*, 373 S. W. 2d 9. When an employee's employment is terminated when he reaches age 65 pursuant to the terms of the union contract to which he by reason of his membership in the union is a party, he leaves his work voluntarily and without good cause attributable to his work or to his employer. He is therefore disqualified of unemployment benefits as provided under Section 288.050. Furthermore, an employee is ineligible for unemployment benefits for any week in which he receives or has received social security benefits exceeding the amount of his unemployment benefits under Section 288.040, supra.

CONCLUSION

It is the opinion of this office that an employee who as a member of a union terminates his employment when he reaches 65 years of age pursuant to the union contract does so voluntarily and without cause attributable to his employer and is disqualified for unemployment benefits for the period of time as provided in Section 288.040, Mo. Cum. Supp.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Moody Mansur.

Yours very truly,


NORMAN H. ANDERSON
Attorney General