

Casebase Number: G0035

Title of Payment: Jobseekers Allowance



Northside Community Law and Mediation Centre
Northside Civic Centre
Bunratty Road
Coolock
Dublin 17

Date of Final Decision 15th August 2012

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Keywords: Availability for work-termination of payment-training schemes-job applications-revised decision

Organisation who assisted claimant: Northside Community Law and Mediation Centre (NCL&MC)

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Case Summary:

This case relates to the Appellant's entitlement to Jobseekers Allowance which was terminated. The Deciding Officer (DO) considered that the Appellant was not available for work but staying at home to mind his children. This decision was appealed on the grounds that the Appellant was in fact looking for work and evidence was provided to that effect. The appeal was allowed by way of summary decision.

Summary of Benefit(s) Received:

Jobseekers Allowance is a means tested benefit for those over 18 years who are unemployed but who are capable of, available for and genuinely seeking work. You must be able to provide evidence of this to the Department of Social Protection. The rules governing the means assessment are contained in *Part 2 of the 3rd Schedule of the Social Welfare Consolidation Act 2005 (as amended)*.

Jobseekers Allowance should be distinguished from Jobseekers Benefit which is a payment for those over 18 years or over who are unemployed and covered by social insurance (PRSI).

The Department of Social Protection Operation Guidelines provide that you will be considered available for work if;

- You state that you are available for work
- You do all that is asked to show compliance with this availability condition
- There is no evidence to suggest the contrary

You must be prepared to accept any offers of suitable employment immediately.

Background:

The Appellant, a bricklayer had been a recipient of Jobseekers Allowance since 2005. In 2011, the Appellant was called in for interview on foot of an anonymous report that he had been working as a taxi driver. Later it was contended that at interview he had admitted to giving up work to mind his children. It was also noted that his wife works 4 days per week. After the interview, a decision (dated 11th January 2012) was made to terminate the

Appellant's Jobseekers Allowance effective from 1st February 2012 on the basis that he was not available for work 4 days per week.

The Appellant disputed that he had suggested giving up work to mind his children at the interview. A revised decision was requested on the 31st of January 2012 and the decision was also appealed on the 30th January on the grounds that he was in fact available for work. The Deciding Officer confirmed the initial decision on the 2nd February 2012.

The appeal was allowed by way of summary decision. Prior to the appeal, the Appellant submitted evidence of training undertaken and job applications made. The Appeals Officer was satisfied there were insufficient grounds for the termination of the Appellant's entitlement to Jobseekers Allowance on the basis of not being available for employment.

Relevant Evidence Put Forth by Appellant:

- Letter to confirm Appellant was registered with FÁS
- FÁS Action Plan
- Letter for Jobs Club Employment Action confirming registration for employment
- Letter from FÁS confirming completion of SAFE PASS training course
- FÁS Vacancy Submissions

Date Appeal Taken: 30/01/2012

Summary Decision: Appeal Allowed, 15/08/2012

Our Observations:

The Appeals Officer was influenced by the evidence submitted rebutting the contention that the Appellant was unavailable for work. This case highlights the importance of keeping detailed records of attempts made to secure employment in order to rebut any claim that a claimant is not capable of, available for or genuinely seeking employment.

For more information on Jobseekers Allowance, useful links are;

- **Citizens Information**
http://www.citizensinformation.ie/en/social_welfare/social_welfare_payments/unemployed_people/jobseekers_allowance.html
- **Department of Social Protection Operational Guidelines**
<http://www.welfare.ie/en/Pages/Jobseekers-Allowance.aspx#condavailwork>
- **Irish National Organisation of the Unemployed**
<http://www.inou.ie/welfarerights/unemployedjobseeker/jobseekersallow.html>

For *more information*, contact us at:

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