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DISTRICT I

July 18, 2023

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Matthew Rademacher
Electronic Notice

You are hereby notified that the Court has entered the following opinion and order:

2022AP1545

Matthew Rademacher v. Labor and Industry Review Commission
(L.C. # 2021CV6394)

Before Brash, C.J., Donald, P.J., and Dugan, J.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Matthew Rademacher, *pro se*, appeals the circuit court's order affirming the decision of the Labor and Industry Review Commission (LIRC).¹ Rademacher argues that monthly GI Bill

¹ We review the decision of LIRC, not the circuit court. *Virginia Surety v. LIRC*, 2002 WI App 277, ¶11, 258 Wis. 2d 665, 654 N.W.2d 306. Therefore, we need not address Rademacher's argument that the circuit court gave undue deference to the LIRC's legal conclusions.

benefits he received while attending school constituted “wages” under WIS. STAT. § 108.04(7)(a) (2021-22),² thus requalifying him for unemployment compensation benefits. Based upon our review of the briefs and record, we conclude that summary disposition is appropriate. *See* WIS. STAT. RULE 809.21. Upon review, we affirm.

Rademacher voluntarily terminated his employment with Vilter Manufacturing Company on July 19, 2019 to attend law school. While he was in law school, Rademacher received over \$1,000 monthly as a cost of living allowance under the GI Bill based on his prior military service. In May 2020, Rademacher applied for unemployment compensation benefits because he was unable to find a job for the summer months after his school semester ended. The Department of Workforce Development determined that Rademacher did not qualify for unemployment benefits because he voluntarily quit his employment at Vilter Manufacturing to attend school. The Department informed Rademacher that he would not be eligible to receive unemployment compensation benefits until he requalified for benefits by earning sufficient income in covered employment.

Rademacher challenged the denial. The hearing examiner affirmed the initial determination. Rademacher appealed to LIRC, arguing that the money he received from the GI Bill constituted “wages” and his school attendance constituted “other work” pursuant to WIS. STAT. § 108.04(7)(a) for purposes of requalifying him for unemployment compensation benefits. LIRC affirmed, as did the circuit court. This appeal follows.

² All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

“If an employee terminates work with an employing unit, the employee is ineligible to receive benefits until the employee earns wages after the week in which the termination occurs ... in employment or other work covered by the unemployment insurance law of any state or the federal government.” WIS. STAT. § 108.04(7)(a). Whether Rademacher is entitled to unemployment benefits based on WIS. STAT. § 108.04(7)(a) is a mixed question of law and fact. *Klatt v. LIRC*, 2003 WI App 197, ¶10, 266 Wis. 2d 1038, 669 N.W.2d 752. The facts here are undisputed. Therefore, whether Rademacher was entitled to benefits turns on the meaning of “wages” and “other work” in WIS. STAT. § 108.04(7)(a).

Rademacher contends that the GI Bill benefits he received are wages pursuant to WIS. STAT. § 108.02(26)(b)(1), which provides that “wages” includes “[a]ny payment in kind or other similar advantage received from an individual’s employment unit for personal services[.]” Rademacher argues that the GI Bill benefits are wages because they are an in kind payment he would not have received had he not *previously provided personal services to his former employer*, the United States Navy. This argument is unavailing because Rademacher was required to “earn[] wages *after* the week in which [he voluntarily quit]” to requalify for unemployment compensation under WIS. STAT. § 108.04(7)(a). Rademacher was entitled to GI Bill benefits based on his *previous* service to the military, and thus did not earn these benefits after he quit Vilter Manufacturing.

Rademacher attempts to overcome this problem with his argument by contending that he *earned* his GI Bill benefits after he quit Vilter Manufacturing because he was providing personal services to the military when he attended law school. He cites *Sliwinski v. City of Milwaukee*, 2009 WI App 162, ¶18, 321 Wis. 2d 774, 777 N.W.2d 88. *Sliwinski* is wholly inapplicable because it discusses whether certain activities constitute personal services in an unrelated context

under WIS. STAT. § 62.50(18), which applies only to firefighters and police officers in Milwaukee. Moreover, *Sliwinski* provides no direct support for Rademacher's claim. There was no employer/employee relationship between Rademacher and the military with regard to Rademacher's schooling. Rademacher was not providing personal services to the military when he decided to go to law school; instead, he was availing himself of an opportunity that flowed from his military service that he was under no obligation to undertake.

Rademacher next argues that his GI Bill benefits should be considered to be wages based on federal statutes that prohibit recipients of GI Bill benefits from simultaneously collecting federal unemployment compensation. Rademacher reasons that if he cannot collect federal unemployment compensation while receiving GI Bill benefits, then the GI Bill benefits must be a form of wages. Rademacher's reasoning is flawed. It does not logically follow that GI Bill benefits must be a form of wages because federal unemployment compensation is unavailable to those who receive these benefits. More importantly, the connection between these federal statutes and the Wisconsin definition of wages under WIS. STAT. § 108.07(4)(a) is too attenuated to persuade us that the federal statutes have any bearing on the question before us. A federal unemployment compensation statute that prohibits recipients from receiving both GI Bill benefits and federal unemployment compensation does not transform the GI Bill benefits into wages for purposes of the Wisconsin unemployment compensation program.

Therefore,

IT IS ORDERED that the order of the circuit court is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals