



Interesting Pennsylvania Court Decision May Further Expand Pool Of Gig Workers

Insights

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A state appellate court in Pennsylvania issued a ruling yesterday that should further aid the growth of the gig economy in the state, and if its reasoning is followed by courts in other states, could offer another helping hand to the nascent gig economy on a national scale. The court ruled that an unemployed man who picked up some shifts as an Uber driver did not disqualify himself from receiving unemployment benefits as a result of his gig work. This is good news for freelancers and businesses alike, as it removes one possible impediment that may have otherwise held people back from offering their services to gig economy companies.

The facts of the case are rather simple and straight-forward. Donald Lowman worked as a behavioral health specialist until he lost his job in June 2015. He filed a claim for unemployment benefits, and while he was looking for a steady job and waiting a determination about his eligibility for benefits, he decided to work as a rideshare driver through Uber. He earned about \$350 per week as an Uber driver to help tide him over during his period of unemployment. Unfortunately, the state Unemployment Compensation Service Center told Lowman that his work with Uber rendered him ineligible to receive unemployment benefits. After an administrative hearing, it concluded that his gig work was a form of “self-employment” and that he was an “independently established commercial driver.” This disqualified him from UI benefits because the law is not intended to protect those with failed business ventures, nor does it offer payment to people who are taking positive steps to establishing their own independent business. The UC Board of Review concluded that Lowman was “self-employed and not just trying to earn some extra money on the side.”

Yesterday, the state appellate court stepped in and overruled this decision, applying a healthy dose of logic to the situation. “Claimants who are receiving unemployment compensation benefits after separating from employment often engage in temporary assignments to supplement their income or to assist them in finding a full-time employer,” the court said in its 11-page ruling. “These assignments do not render a claimant ineligible for unemployment benefits.” It cited an earlier case from 2011 where it had ruled that “short-term work, including self-employment, in which a claimant engages after losing his job, does not render the claimant ineligible for unemployment compensation benefits,” and applied that standard to modern gig work. According to an attorney assisting Lowman, this is the first time that the Pennsylvania appellate court had addressed whether drivers for ridesharing companies could do gig work and still remain eligible for UI benefits.

Let's hope courts across the country apply this same standard when faced with a similar situation. After all, the gig economy works because it solves the problem of idle capacity – when a person has the free time to handle a certain task, and willing consumers are out there in the marketplace with a need for just that kind of task. If the system tells people who are unemployed that they cannot fill this idle capacity with work, they would hamper the economy and the individual's desire (and need) to earn some extra money to help them through a transition period. As long as the worker continues to look for full-time work, and remains available to accept full-time work if offered to them (which gig jobs permit given they are completely flexible), freelancing jobs through a gig economy platform should not block a worker's right to unemployment benefits.

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