10-15-1983

Briefly Noted: Labor Market Attachment and the Avoidable Consequences Rule

David J. Agatstein

Follow this and additional works at: https://digitalcommons.pepperdine.edu/naalj

Part of the Labor and Employment Law Commons

Recommended Citation

This Article is brought to you for free and open access by the Caruso School of Law at Pepperdine Digital Commons. It has been accepted for inclusion in Journal of the National Association of Administrative Law Judiciary by an authorized editor of Pepperdine Digital Commons. For more information, please contact Katrina.Gallardo@pepperdine.edu, anna.speth@pepperdine.edu, linhgavin.do@pepperdine.edu.
BRIEFLY NOTED

Labor Market Attachment and the Avoidable Consequences Rule, by Thomas L. Gravelle, 59 University of Detroit Journal of Urban Law 569 (Summer, 1982).

Readers are commended to this thoughtful article by Thomas L. Gravelle, a former member of the Michigan Employment Security Board of Review. Written for the University of Detroit's Symposium "Long Lines and Hard Times: Future Unemployment Insurance Alternatives," the article is an innovative attempt to introduce the frequently introspective doctrines of unemployment compensation to the influence of other sources of law.

The discussion focuses on the unemployment insurance concept of "availability:" the requirement that a claimant for benefits be ready, willing and able to work. As shown by Mr. Gravelle's detailed synopsis, unemployment litigation has developed a substantial body of rules and evidentiary criteria for determining whether a claimant is "available" (for example, a claimant must be physically able to accept suitable employment, must register for work with an employment security agency, is usually required to conduct a realistic search for work in an appropriate labor market, etc.). Mr. Gravelle observes that many of these criteria, and much of the same evidence, is necessarily considered by labor arbitrators and other tribunals in "back pay" proceedings (that is, proceedings to determine whether a wrongfully discharged employee has mitigated his damages by seeking and accepting a suitable job). Using the few examples disclosed by careful research, the author illustrates the beneficial results which may be obtained when one of these discrete tribunals makes use of the experience and expertise of another. Indeed, the very comparison between unemployment compensation and "back pay" proceedings suggest a novel, theoretical approach to an old problem: the concept of "availability" as a duty to mitigate the damages of involuntary unemployment.

* * *

If you have not received your calligraphically inscribed 1983 MEMBERSHIP CERTIFICATE, or your 1983 MEMBERSHIP CARD, call or write President M. Brent Oldham.