

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

K & H CONSTRUCTION, INC.,

: 124118

Plaintiff,

vs.

INDUSTRIAL COMMISSION OF WISCONSIN

and

MAYNARD A. SEVERSON,

Defendants. :

Before: Hon. W. L. Jackman, Circuit Judge

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Hearing March 8, 1968.

Appearances: For plaintiff: No one appeared and no plaintiff's brief was filed.

For defendants: Max J. Peltin, Attorney.

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The substance of the plaintiff's contention in this case is that during the hunting season, Halverson, the employer's business agent, met the employee in a bar room at Hawkins, Wisconsin, and asked him if he would come back to work for the employer and Halverson claims that the employee told him he wanted to stay up north and take it easy. This was a casual exchange between the two in a saloon. The employee said he did not remember the conversation. The employer never followed up the matter when he got back to the place of business. The appeal tribunal found that this exchange did take place. The Commission affirmed the finding that this was not an offer of work. Apparently the employer did not take the exchange in the bar seriously because it did nothing to follow up the alleged offer. A week before the meeting in the bar the president of the employer had turned down a request by the employee for a job.

An offer of work should be at least of such definite character that it requires nothing more than a simple acceptance to form a contract of hire. An offer should be so definite in its terms or require such definite terms in acceptance, that the promises and performances to be rendered by each party are reasonably certain. Peterson v. Pilgrim Village, 256 Wis. 621.

The issue seems to be whether the Commission is compelled to accept as an offer of work remarks made on a casual meeting between the employee and the agent of the employer in a bar room during the deer season, which apparently neither one took seriously enough to follow up. Certainly after the employee had been turned down the week before by the president of the company, the employee had no reason to take it seriously.

We doubt that the Commission might have found there was an offer of work had it seen fit. But the circumstances of the refusal to employ one week before and the casual nature of the meeting far away from the employer's base of operations on a festive occasion would certainly warrant the Commission finding that the exchange in the Hawkins bar was not a bona fide offer of work but merely small talk which no one took seriously at the time.

If the Commission could have accepted the employer's contention that this was a bona fide offer of work, it was not compelled to do so. The findings and order of the Commission will be confirmed.

The Attorney General will prepare the judgment and, after submitting it to opposing counsel for approval as to form, will present it to the court for entry.

BY THE COURT:

March 8, 1968

W. L. Jackman

Judge