

**BRADLEY V. NEW MEXICO DEPT' OF LABOR-EMPLOYMENT SEC. DIV., 1991-
NMSC-024, 111 N.M. 524, 807 P.2d 222 (S. Ct. 1991)**

**JAMES BRADLEY, Petitioner-Appellant,
vs.
NEW MEXICO DEPARTMENT OF LABOR-EMPLOYMENT SECURITY
DIVISION, and NICHOLAS MINETOS, Employer,
Respondents-Appellees**

No. 19,056

SUPREME COURT OF NEW MEXICO

1991-NMSC-024, 111 N.M. 524, 807 P.2d 222

March 05, 1991, Filed

Appeal from the District Court of Bernalillo County; Gerard Thomson, District Judge.

COUNSEL

Fine & Faure, Edward F. Snow, Albuquerque, New Mexico, for Appellant.

Tom Udall, Attorney General, Santa Fe, New Mexico, D. Sandi Gilley, Special, Assistant Attorney General, Albuquerque, New Mexico, for Appellees.

JUDGES

Dan Sosa, Jr., Chief Justice. Seth D. Montgomery, Justice, Gene E. Franchini, Justice, concur.

AUTHOR: SOSA

OPINION

Sosa, Chief Justice.

{*524} {1} Claimant James Bradley appeals the district court's decision affirming the denial of benefits ordered by the Employment Security Division of the New Mexico Department of Labor (ESD). The decision to disqualify claimant was based on Section 51-1-7(A) of the Unemployment Compensation Law, NMSA 1978, Sections 51-1-1 to 51-1-55 (Repl. Pamp. 1987 & Cum. Supp. 1990), which provides for the denial of benefits when a claimant voluntarily quits a job without good cause connected with the work. We reverse the court's decision based on our recent opinion in **Lopez v. Employment Security Division**, 111 N.M. 104, 802 P.2d 9 (1990).

{2} The findings of fact and conclusions of law entered by the district court may be summarized as follows. Claimant, an unemployed technical writer with four years' experience, had been laid off from a job with a landscape company called Beauty Scapes. ESD determined that claimant was eligible to receive unemployment compensation benefits based upon his employment with Beauty Scapes, his base-period employer. During the period in which his eligibility was being determined, claimant inquired of ESD if his benefits would cease should he accept work assignments through temporary employment agencies. ESD informed claimant that he would not be disqualified from receiving benefits if he pursued short, temporary assignments, provided he report any earned income to ESD.

{3} Prior to receiving his first benefit payment, claimant accepted a two-day temporary job. Claimant reported to the job assignment on day one, but did not report to work for the second day of the assignment. Based upon his past experience with temporary jobs, claimant believed his services were no longer required since no one requested him to return. Claimant reported his earnings for one day of work to ESD. The court found that regardless of whether claimant completed the two-day assignment, the job would have ended on the second day through no fault of claimant. The court, however, finding substantial evidence in the record, agreed with ESD's determination that claimant had quit the temporary job without good cause connected with the work and affirmed his disqualification from receiving benefits.

{*525} {4} The claimant in **Lopez** also was disqualified under Section 51-1-7(A) when she quit part-time employment as a waitress after two days in order to devote substantial time to securing employment in her trained field of telecommunications. Her base-period employer was a television station where she had worked for four and one-half years before being laid off. In response to ESD's argument that the term "employment" as used in Section 51-1-7 included all employment, we held that "employment" as used in that section referred only to employment during which base-period wages were earned, and not to all employment as argued by ESD. We reasoned that because Section 51-1-4, which describes how benefits shall be paid, is grounded upon base-period wages the disqualification section also must refer to only employment during which base-period wages are earned. **Lopez**, 111 N.M. at 104, 802 P.2d at 11.

{5} Here claimant qualified for benefits using the base-period employment with Beauty Scapes and remained eligible to receive benefits so long as he continued to satisfy conditions of eligibility each week, which included reporting any wages earned through temporary work assignments. Under our holding in **Lopez**, claimant's one-day absence from the temporary work assignment simply does not provide a legal basis for disqualification from benefits under Section 51-1-7(A).

{6} Based upon the above, the decision by the district court is reversed and the cause is remanded for entry of an order consistent with this opinion.

{7} IT IS SO ORDERED.