

Employment Security Commission of North Carolina

Raleigh, North Carolina

Interpretation No. 88

To: R. F. Martin, Director

From: D. G. Ball, Senior Attorney

RE: Interpretation of Section 96-11 (c) (2) of the Employment Security Law of North Carolina - Voluntary Coverage

The record indicates that the John Doe Mills, in order to satisfy a claimant and a former employee, has filed a supplemental report of the earnings of the claimant for the year 1947 and the first quarter of 1948 while he was performing agricultural labor on a farm owned and/or operated by the John Doe Mills. A check for the amount of contributions "due" on the claimant's wages, plus interest computed to July 31, 1949, was sent to a Field Representative on August 4, 1949, by the attorney for the employer.

We are of the opinion that we cannot accept the contributions so paid or consider the claimant in "employment" because the employer has not filed with the Commission a written elective coverage agreement that all exempt employees performing agricultural labor shall be deemed in employment for all purposes of the Employment Security Law. Moreover, the application for voluntary coverage of the exempt employees must first have the written approval of the Commission for such services to be deemed to constitute employment and shall be effective only from and after the date stated in the approval.

We are of the opinion that the John Doe Mills cannot voluntarily contribute on that portion of the claimant-employee's wages earned from farm labor while other employees of the same mill performing farm labor are not covered.

The Employment Security Commissions of California, Georgia, and Idaho which have similar voluntary coverage provisions in their laws have held that "an elective coverage agreement may be approved which would apply to all or a certain class of services performed at one ranch (establishment) and to none or a different class of service performed at the other ranch (establishment)." (C. C. H. California, paragraph 1325, page 8,043-3.)

The Georgia Unemployment Compensation Commission holds that: "An employer may not elect coverage with respect to some employees in a particular establishment and exclude

other employees provided both are employed in the same establishment or place of business.” (C. C. H. Georgia, paragraph 1325, page, 14,033.)

Adopted as an Official Interpretation by the Commission on October 4, 1949.