

EMPLOYMENT SECURITY COMMISSION OF NORTH CAROLINA

Interoffice Communication

Date: January 28, 1986

TO: Holders of Interpretation Manual

FROM: T. S. Whitaker, Chief Counsel

SUBJECT: Interpretation No. 255, Supplement No. 1

In accordance with Interpretation No. 252, the attached Interpretation No. 255, Supplement No. 1 has been adopted as an official Interpretation by the Commission replacing the prior Supplement No. 1 and shall be distributed to all holders of the Interpretations. (The legislative amendment to G.S. 96-8(10)c in 1983 supersedes the prior Supplement No. 1, adopted 11-10-82).

Any questions about this Interpretation should be directed to the Office of the Chief Counsel at (919) 733-4636.

Attachment

EMPLOYMENT SECURITY COMMISSION OF NORTH CAROLINA

INTERPRETATION NO. 255, SUPPLEMENT NO. 1

TO: Employment Security Commission
FROM: T. S. Whitaker, Chief Counsel
SUBJECT: National Guard and Reserve Pay

National Guard Pay is not to be considered as reportable wages or earnings for any purposes under Chapter 96.

G.S. 96-8(6)i(c) specifically declares that such service is not employment. Since it is not employment under Chapter 96, National Guard pay cannot be used as wage credits to establish a benefit year nor is it reportable as wages pursuant to G. S. 96-12(c). It is not work pursuant to G.S. 96-8(24). It also cannot be used to remove a disqualification under G.S. 96-14(10).

G.S. 96-8(10)c, in pertinent part, provides that . . .”(s)ums received by any individual for services performed as a member of the N.C. National Guard, as defined in G.S. 127A-3, or as a member of any reserve component of the United States Armed Forces shall not be considered in determining that individual’s employment status under this subsection.”

Considering the above cited law and G.S. 96-8(6)k.2., only those earnings from federal military service which can be used to establish a UCX *Unemployment Compensation to Ex-Service Personnel) are reportable for any purposes under Chapter 96. (Normally, this requires 160 or more days of consecutive service.) In other words, earnings from federal military service are not to be considered in establishing a valid claim, as earnings reportable pursuant to G.S. 96-12(c), or earnings to remove a disqualification under G.S. 96-14(10) unless those earnings also could be used in establishing a “UCX” claim.

Adopted as an official Interpretation by the Commission on January 28, 1986.