

OCT 11 1979  
L79 - 319

Director of Management Control

General Counsel

Special Unemployment Claims Agents

This is in reply to your memorandum dated September 19, 1979, wherein you ask whether the special unemployment claims agents appointed by the Railroad Retirement Board under section 12(h) of the Railroad Unemployment Insurance Act are employees of the Board or independent contractors.

Initially, it should be noted that the authority of the Board to hire special unemployment claims agents derives not from section 12(h) of the Railroad Unemployment Insurance Act but from section 12(1) of that Act, which reads in pertinent part:

"\* \* \* [For] the purpose of registering unemployed employees who reside in areas in which no employer facilities are located, or in which no employer will make facilities available for the registration of such employees, the Board may, without regard to civil-service laws \* \* \* appoint persons to accept, in such areas, registration of such employees and perform services incidental thereto and may compensate such persons on a piece-rate basis to be determined by the Board.  
\* \* \*

The unemployment claims agents provided for by section 12(h) of the Railroad Unemployment Insurance Act are employees of either railroads or labor unions who are employed by that employer to take unemployment claims on behalf of the Board. Section 12(h) provides that compensation for the taking of those claims should be made to the railroad employer for whom the claims agent is employed.

Special unemployment claims agents appointed pursuant to section 12(1) are engaged only for the limited purposes of taking unemployment claims and providing an employment

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referral service. These claims agents keep no set hours and do not work out of offices provided by the Board. Their payment is on a piece rate basis for the accomplishment of a specific project. Although these claims agents are provided with forms and instructions by the Board and are usually appointed for an extended period of time, they are, in my opinion, acting as independent contractors rather than as employees of the Board.

Dale G. Zimmerman

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