



DEPARTMENT OF EMPLOYMENT AND TRAINING

BOARD OF APPEALS

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DECISION

IN THE MATTER OF THE APPEAL OF:

Rinis Travel Service, Inc .

Decision No.: 3-EA-84

Date: February 9, 1984

Exec. Determ. No.: 9864

Emp. Account No.: 913381-1

ISSUE:

Whether certain individuals doing work as a travel agent for. Rinis Travel Service, Inc. on a commission basis are employees within the meaning of §20(g) (6) of the Law.

NOTICE OF RIGHT OF APPEAL TO COURT

YOU MAY FILE AN APPEAL FROM THIS DECISION IN ACCORDANCE WITH THE LAWS OF MARYLAND. THE APPEAL MAY BE TAKEN IN PERSON OR THROUGH AN ATTORNEY, IN THE SUPERIOR COURT OF BALTIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU DO BUSINESS.

THE PERIOD FOR FILING AN APPEAL TO COURT EXPIRES _____

APPEARANCES

For the Appellant:

Charles Zuravin - Atty. At Law
Babette Rinis - Owner

For the Executive Director:

John Roberts -
Legal Counsel

FINDINGS OF FACT

The Rinis Travel Service employs seven full-time persons as travel agents, They are paid a hi-weekly salary plus a commission on business which they have personally brought into the office. They are paid sick leave, vacation pay, medical insurance and profit sharing. They are entitled to paid holidays and vacations (three trips per year) , and the use of the company 's computer. They are also trained on the use of the computer.

This case concerns other agents who have some connection with Rinis Travel Service. These agents receive no salary from Rinis Travel Service, Rinis Travel exercises no control over when they work, where they work, which territory they cover, how they work, or . how they are trained. They cannot use Rinis Travel Service's computer terminals.

These travel agents obtain their own customers from their own advertisements or connections and arrange trips for these customers on their own. The customers also are billed by these agents on their own. The only function which Rinis Travel Service provides is the procurement of airline tickets to these agents for a price. When one of these outside agents books a trip which requires an airline ticket, this agent notifies Rinis. Rinis then arranges for the purchase of the airline ticket, taking 40% of the commission for the service. The outside agent retains 60% of the commission.

These outside agents do not use the Rinis Travel Service premises to sell travel to their clients. They are not allowed to use the Rinis computer. They are allowed to use one empty desk on the premises in order to sit and peruse travel material that Rinis.. may or may not have available. The owner of Rinis may consult with these persons on an informal basis and--give them recommendations, but these recommendations are in no way binding on the outside agents. .

These outside agents are not supposed to approach established Rinis customers. The Rinis Travel Service has no control over whether or not these outside agents also work under this arrangement with other travel agencies, nor does it apparently care. No reports are required by Rinis of these outside agents. If, for example, an outside agent is unable to perform the duties which he owes to his customers, the outside agent would not turn to Rinis Travel Service to cover for him, nor is Rinis Travel Service expected to cover for him.

The outside agents do come into the Rinis Travel Service to process airline tickets, as this is the primary service which Rinis does provide to these agents. Many agents are not "appointed" by the airlines as authorized agents, and Rinis uses its appointment to obtain tickets for these agents at a price.

These outside agents do carry business cards with both their names and the Rinis Travel Service's name on them. When the outside agents use Rinis' service to purchase airline tickets, they simply come to the office and use the Rinis Travel Service's validation plate and fill out the airline ticket themselves. They may, though they are not required, also ask the owner of Rinis Travel Service to check the airline ticket for them to see that it is properly completed.

CONCLUSIONS OF LAW

In order for services performed to be considered as exempt from the unemployment insurance statute, the requirements of §20(g) (6) must be met. That section states that all three requirements listed in its subsection must be met concurrently: