Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2006-292

MARCH TERM, 2007

Thomas Corbett and North American Hockey Academy, Inc.	}	APPEALED FROM:
v.	}	Employment Security Board
Department of Labor	}	DOCKET NO. 03-06-157-01

In the above-entitled cause, the Clerk will enter:

Claimant Thomas Corbett appeals pro se from the Employment Security Board's denial of his application for unemployment benefits. He argues that he should not be disqualified from benefits simply because he works at an educational institution, but rather should be treated like other seasonal employees. We affirm.

Claimant works as a chef for North American Hockey Academy, Inc., an educational institution. He filed a claim for unemployment benefits at the expiration of the academic term in March 2006. A claims adjudicator denied his claim pursuant to 21 V.S.A. § 1343(c)(2), finding that claimant performed services for an educational institution during the past term and he had a reasonable assurance of performing services in a similar capacity for the next regularly scheduled academic term. This decision was affirmed by an administrative law judge and by the Employment Security Board. This appeal followed.

On appeal, claimant argues that it is unfair to treat him differently than other seasonal employees who are similarly assured of returning to their positions but can nonetheless collect unemployment benefits. He also suggests that 21 V.S.A. § 1343 should not apply to him because he is not a teacher.

On review, we will uphold the Board's decision unless it can be demonstrated that its findings and conclusions are erroneous. Trombley v. Dep't of Employment & Training, 146 Vt. 332, 334 (1985). Absent a compelling indication of error, we defer to the Board's interpretation of a statute that it is charged with executing. Sec'y, Agency of Natural Res. v. Upper Valley Reg'l Landfill Corp., 167 Vt. 228, 238 (1997).

We find no error here. Pursuant to 21 V.S.A. § 1343(c)(2), individuals who perform services for an educational institution in any capacity are ineligible for unemployment benefits between two successive academic terms if they performed services during the first academic term, and they have a reasonable assurance of performing the same services during the next term. Claimant's

employment as a chef at an educational institution fits squarely within the plain language of the statute, and it is undisputed that claimant has a reasonable assurance of performing such services in the next academic year. His claim for benefits was therefore properly denied. Given the plain language of the statute, claimant's assertion that he is being treated unfairly compared to other seasonal employees is a question for the Legislature, not this Court. See In re Miserocchi, 170 Vt. 320, 324 (2000) (Court is "bound by the plain and ordinary meaning of [statutory] language, unless it is uncertain").

Affirmed.

BY THE COURT:

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Paul L. Reiber, Chief Justice

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John A. Dooley, Associate Justice

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Brian L. Burgess, Associate Justice