

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 6260 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

MILDRED P. GRAY

PRECEDENT
BENEFIT DECISION
No. P-B-243

FORMERLY BENEFIT DECISION No. 6260
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STATEMENT OF FACTS

This claimant appealed to a referee from a determination of the Department of Employment holding the claimant ineligible for benefits under section 1309 of the Unemployment Insurance Code [now section 1264 of the code]. On December 31, 1954, the California Unemployment Insurance Appeals Board set aside the decision of the referee and removed the matter to itself under section 1336 of the code.

The claimant was last employed in Garden Grove, California. She left this employment March 30, 1954 to accompany her parents to Altus, Arkansas. The claimant is an unemancipated minor who has always resided with her parents. The claimant's parents moved to Arkansas because her father had become disabled in December, 1953. The claimant left her work in California to accompany her parents to Arkansas because they would not permit her to remain alone in California.

When the claimant left her employment, she was earning \$50 per week which she used for the support of the family. Her mother was earning 90 cents per hour and her father had no earnings. No member of her family was working when the claimant filed a claim for benefits.

Effective May 30, 1954, the claimant registered for work and filed a claim for benefits against California as the liable state in the Ft. Smith Office of the Arkansas Employment Security Division. On July 26, 1954, the California Department of Employment issued a determination holding the claimant ineligible for benefits for an indefinite period commencing May 30, 1954 under section 1309 of the code [now section 1264 of the code].

The question before us is whether the claimant is ineligible for benefits under the provisions of section 1309 of the code [now section 1264 of the code].

REASONS FOR DECISION

Section 1309 of the code [now section 1264 of the code] provides:

"Notwithstanding any other provision of this division, an employee who leaves his or her employment to be married or to accompany his or her spouse to or join her or him at a place from which it is impractical to commute to such employment or whose marital or domestic duties cause him or her to resign from his or her employment shall not be eligible for unemployment insurance benefits for the duration of the ensuing period of unemployment and until he or she has secured bona fide employment subsequent to the date of such voluntary leaving; provided that, notwithstanding any other provision of this division, this section shall apply only to claims for unemployment compensation benefits and shall not apply to claims for unemployment compensation disability benefits. The provisions of this section shall not be applicable if the individual at the time of such voluntary leaving was and at the time of filing a claim for benefits is the sole or major support of his or her family."

The evidence clearly establishes that, at the time the claimant resigned from her employment, she was the major support of her family.

However, under the provisions of section 1309 of the code [now section 1264 of the code], the question of "sole or major support" shall be determined for the second time "at the time of filing a claim for benefits". Since both the claimant and her parents were unemployed at the time she filed a claim for benefits and since she was the major support of the family at the time she resigned her employment, it follows that there had been no change in the family status and that she must still have been considered to be the major support of the family at the time of filing her claim for benefits. Accordingly, we hold that the claimant is not ineligible under the provisions of section 1309 of the code [now section 1264 of the code] (Benefit Decision No. 6202). We further conclude that, as the claimant was obligated by law to obey the commands of her parents, including orders to change residence, and since the evidence establishes that the claimant was compelled to accompany her parents, we find that she had good cause for leaving her employment (Section 213, Civil Code).

DECISION

The determination of the department is reversed. Benefits are payable provided the claimant is otherwise eligible.

Sacramento, California, March 18, 1955.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

MICHAEL B. KUNZ, Chairman

GLENN V. WALLS

EDWARD CAIN

Pursuant to section 409 of the Unemployment Insurance Code, the above Benefit Decision No. 6260 is hereby designated as Precedent Decision No. P-B-243.

Sacramento, California, February 24, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSCHGI

HARRY K. GRAFE

RICHARD H. MARRIOTT