

BEFORE THE  
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT  
DECISION NO. 6534 AS A PRECEDENT  
DECISION PURSUANT TO SECTION  
409 OF THE UNEMPLOYMENT  
INSURANCE CODE.

In the Matter of:

ALLEN P. KNIGHT  
(Claimant-Appellant)

MATHER AIR FORCE BASE  
(Employer)

PRECEDENT  
BENEFIT DECISION  
No. P-B-191

FORMERLY BENEFIT DECISION No. 6534
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STATEMENT OF FACTS

The claimant appealed from the determination of the Department of Employment which held that he was not entitled to federal unemployment insurance benefits under the California Unemployment Insurance Code. Subsequent to the issuance of the referee's decision, the Appeals Board removed the matter to itself under code section 1336.

The claimant filed a claim for federal unemployment insurance benefits on October 28, 1956. He was disqualified for benefits for the five-week period from October 28, 1956 to December 1, 1956. The referee's hearing was held December 17, 1956. No benefits have been paid for the period involved herein.

The claimant had been employed as a janitor by the Mather Air Force Base. On March 11, 1956, he was arrested for drunken driving; and he paid a fine of \$250. On June 15, 1956, he was separated from federal service on the ground of serious misconduct while off duty.

The issue presented to us is whether misconduct as defined by federal civil service regulations necessarily constitutes misconduct "connected with

his most recent work" within the meaning of California Unemployment Insurance Code section 1256.

### REASONS FOR DECISION

We have previously held that, in claims for federal unemployment insurance benefits, the "findings" of a federal agency with respect to the termination of employment are final and conclusive (Benefit Decisions Nos. 6377 and 6405). Title XV of the Social Security Act provides that the unemployment insurance law of the state in which a claim for federal unemployment insurance benefits is filed shall be applicable to the claim.

In the present case, the fact that the claimant had been discharged because he had been convicted of drunken driving while off duty constituted misconduct under federal regulations. However, whether such conduct would also be considered as misconduct connected with the claimant's work under California Unemployment Insurance Code section 1256 is not a question of fact to be conclusively determined by the federal agency but is rather an application by this Appeals Board of the California unemployment insurance law to the facts involved.

We have previously held that, in order to constitute misconduct within the meaning of code section 1256, the claimant must have materially breached a duty owed the employer under the contract of employment, which breach tends substantially to injure the employer's interest. In accord with this principle, a discharge resulting from a violation of a company rule is not, in itself, a discharge for misconduct which results in the disqualification for benefits under code section 1256 (Benefit Decision No. 4685). In the present case, the incident occurred while the claimant was off duty and did not tend substantially to injure the employer's interest. Accordingly, we find that the claimant was discharged for reasons other than misconduct connected with his work.

DECISION

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

Sacramento, California, July 12, 1957.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

MICHAEL B. KUNZ, Chairman

GLENN V. WALLS

ARNOLD L. MORSE

Pursuant to section 409 of the Unemployment Insurance Code, the above Benefit Decision No. 6534 is hereby designated as Precedent Decision No. P-B-191.

Sacramento, California, January 27, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSCHGI

HARRY K. GRAFE

RICHARD H. MARRIOTT