BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT DECISION NO. 5422 AS A PRECEDENT DECISION PURSUANT TO SECTION 409 OF THE UNEMPLOYMENT INSURANCE CODE.

In the Matter of:

RUTH N. FLETCHER
(Claimant)

LIVINGSTON BROTHERS, INC.
(Employer-Appellant)

PRECEDENT
BENEFIT DECISION
No. P-B-202

FORMERLY
BENEFIT DECISION
No. 5422

The above-named employer on April 14, 1949, appealed from the decision of a Referee (SF-5872) which held that the claimant was ineligible for benefits under Section 57(c) of the Unemployment Insurance Act (now section 1253(c) of the Unemployment Insurance Code) but was not subject to disqualification for benefits under section 58(a)(1) of the Act (now section 1256 of the Unemployment Insurance Code). The above-named claimant on April 15, 1949, appealed from that portion of the Referee's decision which held that she was ineligible for benefits under section 57(c) of the Act. For the purpose of decision, both appeals will be considered together.

Based on the record before us, our statement of fact, reason for decision and decision, are as follows:

STATEMENT OF FACT

The claimant was last employed for three years as a cashier by a women's ready-to-wear store in San Francisco. Because of domestic responsibilities she worked short hours from 11 a.m. to 4 p.m. and received $1.01 per hour. On

January 4, 1949, she voluntarily terminated her employment under circumstances hereinafter set forth. On January 6, 1949, the claimant registered for work as a cashier-wrapper and filed a claim for benefits in the San Francisco office of the Department of Employment. As the result of an employer protest, the Department on February 7, 1949 issued a determination which held that the claimant was not subject to disqualification under section 58(a)(1) of the Act and was eligible for benefits under section 57(c) of the Act.

On December 27, 1948, the claimant was notified that short-hour cashier work was being discontinued but she could remain employed in other work on a full time basis without change in hourly rate. The claimant worked on January 3 and 4 under the new assignment which included cashier work for one and one-half hours and stockroom duties the balance of the day. The claimant stated that this full time work interfered with her domestic routine, since it prevented her from preparing a five o'clock dinner for her husband who was employed on a 5 a.m. to 2 p.m. shift, as a bus operator. Beginning April 1, 1949, her husband's shift would change and she indicated she would then be able to accept full time work. The claimant had been unwilling to continue her new assignment pending the return of a supervisor for a discussion of an adjustment in her work. She contended she was a cashier and not a stockroom worker.

Claimant is a member of the Department Stores Employees Union Local 1100, whose representative testified that 20 percent of their membership is employed on short hour work. During the period under appeal he did not know of any available short time cashier work since employers in the area were retrenching. The claimant had been unable to find such work.

REASON FOR DECISION

It is undisputed that the claimant voluntarily terminated her employment and the issue is whether she did so with good cause. The domestic circumstance of preparing dinner for her husband, which the claimant cited as her primary reason for leaving work which had been changed from part-time to full time hours, is not of the compelling nature required to constitute good cause under section 58(a)(1) of the Act (now section 1256 of the Unemployment Insurance Code). Although a second reason advanced was the change in duties from cashier to stockroom work, there is no evidence that the claimant was unable to perform the new duties which were compensated at the same wage rate as her former work, or that the new assignment was a demotion. Therefore, under the facts herein, we hold that the claimant voluntarily left her most recent employment without good cause under section 58(a)(1) and is subject to

disqualification provided in section 58(b) of the Act (now section 1260 of the Unemployment Insurance Code).

The further issue raised in the claimant's appeal is whether she met the availability requirements of section 57(c) of the Act (now section 1253(c) of the Unemployment Insurance Code). To be available for work, a claimant must be ready, willing and able to accept suitable employment in a normal labor market without limitation or restriction. In the instant case, the claimant's restriction to short-time cashier work in a limited labor market had the effect of unreasonably reducing her opportunities for obtaining work and thereby resulted in a withdrawal from the labor market. Therefore, we agree with the Referee that the claimant is ineligible for benefits under section 57(c) of the Act for the period involved herein.

DECISION

The decision of the Referee is modified. The claimant is disqualified for benefits under section 58(a)(1) of the Act for the five weeks period provided in section 58(b) of the Act. The claimant is ineligible for benefits under section 57(c) of the Act.

Sacramento, California, June 30, 1949.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

MICHAEL B. KUNZ, Chairman

GLENN V. WALLS

PETER E. MITCHELL

Pursuant to section 409 of the Unemployment Insurance Code, the above Benefit Decision No. 5422 is hereby designated as Precedent Decision No. P-B-202.

Sacramento, California, January 29, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSCHGI

HARRY K. GRAFE

RICHARD H. MARRIOTT