

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 5242 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

MARRIETTA NORRIS

PRECEDENT
BENEFIT DECISION
No. P-B-204

FORMERLY BENEFIT DECISION No. 5242
--

The above-named claimant on April 16, 1948, appealed from the decision of a Referee (LA-12062) which held that the claimant was subject to disqualification under section 58(a)(4) of the Unemployment Insurance Act (now section 1257(b) of the Unemployment Insurance Code) and that she was ineligible for benefits under section 57(c) of the Act (now section 1253(c) of the Unemployment Insurance Code) from February 25, 1948, to March 31, 1948. At the claimant's request, an additional hearing in this matter was held before a Referee on November 4, 1948, and a transcript of the evidence obtained by the Referee at the additional hearing has been referred to this Appeals Board for consideration.

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 eighteen months as a legal secretary in Wilmington, California. She began this work at a wage of \$160 per month and through a series of service increases she was receiving \$200 per month when she left the employment in August, 1947, because of illness. The claimant has had prior experience as a stenographer, secretary, and rate clerk for various employers in the Long Beach area at wages ranging from \$155 to \$180 per month.

On August 9, 1947, the claimant filed a claim for disability insurance and received benefits thereunder for a period of time. On December 29, 1947, she filed a claim for unemployment insurance and registered for work in the Long Beach office of the Department of Employment. On March 10, 1948, the Department issued a determination which held (1) that the claimant was disqualified under section 58(a)(4) of the Act on the ground that she had failed without good cause to apply for suitable employment on February 27, 1948, and (2) that she was not available for work within the meaning of section 57(c) of the Act. The claimant appealed and a Referee affirmed the determination.

On February 27, 1948, the claimant was offered a referral to employment as a stenographer for an insurance company in Long Beach. The hours were to be from 8:00 a.m. to 5:00 p.m., five days per week and half days on Saturdays. The prospective employment paid a starting wage of \$140 per month. The claimant refused the referral on the ground that the offered wage was insufficient. The claimant restricted acceptable employment to a wage of \$175 per month for a five-day week although she is willing to accept a lesser wage for fewer hours per week.

The prevailing wage scale in the Long Beach area for stenographers with one and one-half years experience ranges from \$150 to \$225 per month, and for experienced legal stenographers \$190 to \$240 per month. Civil Service employees of the city of Long Beach classified as clerk-typists start at a wage of \$175 per month and stenographers at \$180 per month. The claimant's typing speed is approximately sixty words per minute and shorthand speed approximately ninety-five words per minute.

REASON FOR DECISION

Section 13(b) of the Unemployment Insurance Act (now section 1258 of the Unemployment Insurance Code) provides in part as follows:

"Notwithstanding any other provision of this act, no work or employment shall be deemed suitable and benefits shall not be denied to any otherwise eligible and qualified individual for refusing new work under any of the following conditions:

"(2) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;"

In this case the claimant refused a referral to prospective employment as a stenographer in Long Beach because the starting wage of \$140 per month was not within her minimum wage requirements for a forty hour week. It is clear from the evidence before us that such wage was substantially less favorable than the prevailing scale for work within the claimant's qualifications and experience in Long Beach. Since, under the Act, employment offered to a claimant under such circumstances must be deemed unsuitable, it follows that the claimant in this case may not be subjected to disqualification for her failure to apply for employment on February 27, 1948.

It is our further opinion that the claimant's restriction on acceptable employment to a wage of \$175 per month was not unreasonable in view of her qualifications and prior experience, and that such wage was not in excess of the prevailing rates paid by employers in the Long Beach area. As far as the record discloses, the claimant has imposed no other unreasonable restrictions or limitations on acceptable work and therefore must be considered available for work and eligible for benefits under section 57(c) (now section 1253(c) of the unemployment Insurance Code) for the period involved in this appeal.

DECISION

The decision of the Referee is reversed. Benefits are allowed provided the claimant is otherwise eligible for the period February 23, 1948, to March 31, 1948.

Sacramento, California, December 17, 1948.

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. 5242 is hereby designated as Precedent Decision No. P-B-204.

Sacramento, California, January 29, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSCHGI

HARRY K. GRAFE

RICHARD H. HARRIOTT