

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 6377 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

CHARLOTTE E. TUCKER
(Claimant)

Referee's Decision
No. S-UCFE-58

PRECEDENT
BENEFIT DECISION
No. P-B-228

FORMERLY BENEFIT DECISION No. 6377
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STATEMENT OF FACTS

The federal agency appealed from the referee's decision which held that the claimant was entitled to benefits under the Unemployment Insurance Code.

The record discloses that the claimant was employed in various capacities by the Stockton Annex, Naval Supply Center, Oakland, for approximately nine and one-half years ending February 25, 1955. On March 13, 1955, the claimant registered for work with the Stockton office of the Department of Employment and filed a claim for unemployment compensation benefits for federal employees. On March 30, 1955, the Department disqualified the claimant under Section 1253(c) of the code from March 13, 1955 to March 27, 1955. The claimant was also disqualified for a five-week period under Section 1256 of the code when it was determined that she had quit her work voluntarily and without good cause. The claimant was ill and unable to work between March 13, 1955 and March 27, 1955 and did not appeal the disqualification under Section 1253(c) of the code. She did, however, file a timely appeal from the disqualification under Section 1256 of the code; and it is with respect to that disqualification that this decision is concerned. On February 17, 1955, the claimant submitted a resignation

effective February 25, 1955, giving "personal reasons" as the reason for separation although the claimant contends that she was forced to resign from her employment as the only alternative to discharge because of unsatisfactory work.

The department's Form ES 934 (Request for Information or Reconsideration of Federal Findings) was returned by the Stockton Annex, Naval Supply Center, Oakland, with, in addition to the recent employment history of the claimant at that facility, the following pertinent quotation concerning her separation from federal service:

"Mrs. Tucker appeared in the Industrial Relations office on 25 February 1955 stating she wished to resign, and when asked for a reason stated 'personal reasons'. However it is most likely that had not Mrs. Tucker resigned that a letter [sic] of warning would have been issued and steps taken to remove her from federal service for inability to perform satisfactorily the job assigned."

REASONS FOR DECISION

The Social Security Act of 1935, as amended, Title XV (now Chapter 85 of Title 5 of the United States Code), Unemployment Compensation for Federal Employees, Section 1507(a) (now section 8506(a)), provides in part,

". . . Such information shall include the findings of the employing agency with respect to

* * *

"(4) The reasons for termination of such service. The employing agency shall make the findings in such form and manner as the Secretary shall by regulations prescribe (which regulation shall include provision for correction by the employing agency of errors and omissions). Any such findings which have been made in accordance with such regulations shall be final and conclusive for the purposes of Sections 1502(c) and 1503(c) [now sections 8502(c) and 8503(c)]."

"Findings" is not defined by Title XV of the Social Security Act, as amended (now Chapter 85 of Title 5 of the United States Code), or by Title 20 - Employees Benefits, Parts 609 and 610, Regulations to Implement Title XV of the Social Security Act, as amended. Consequently, without other information, we have accepted the above-quoted portion of the department's Form ES 934, which was admitted in evidence, as the "findings" of the federal agency in this matter.

Section 1256 of the California Unemployment Insurance Code provides in part:

"1256. An individual is disqualified for unemployment compensation benefits if the director finds that he left his most recent work voluntarily without good cause or that he has been discharged for misconduct connected with his most recent work"

In Benefit Decision No. 5531, we held that the claimant did not have good cause for leaving, stating:

"It appears that the claimant left because he anticipated being discharged due to his failure to produce any business during a two weeks' period following the receipt of a letter of criticism from his employer because of his unproductivity. Although the claimant might reasonably have assumed that the employer would eventually terminate his service for unsatisfactory performance if he continued to make no sales nevertheless it is clear in the instant case the claimant was the moving party. The evidence shows that although the claimant had been repeatedly warned he could not be kept much longer, he was still retained after each warning and the employer had taken no definite steps to discharge him at any specified, or ascertainable time. We have previously held that leaving work in anticipation of a layoff is a leaving without good cause (Benefit Decision No. 3629)."

Since the evidence in the present case supports the conclusion that the claimant voluntarily submitted her resignation prior to affirmative action by the employer, we hold that she voluntarily left her employment without good cause.

DECISION

The decision of the referee is reversed. The claimant is disqualified from benefits under the provisions of Section 1256 of the code.

Sacramento, California, November 4, 1955.

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. 6377 is hereby designated as Precedent Decision No. P-B-228.

Sacramento, California, February 9, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

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