

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 6595 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

VON DEE TRAMMEL
(Claimant-Appellant)

HILLER AIRCRAFT
(Employer-Respondent)

PRECEDENT
BENEFIT DECISION
No. P-B-236

FORMERLY BENEFIT DECISION No. 6595
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STATEMENT OF FACTS

The claimant appealed from Referee's Decision No. SF-24489 which held that the claimant was not entitled to benefits under sections 1253(c) [now sections 1253(c) and (e)] and 1256 of the Unemployment Insurance Code and that the employer's account is not chargeable under section 1032 of the code.

The claimant was employed as a junior typist at a wage of \$1.56 per hour for approximately one year ending May 22, 1959, when she resigned because she was moving with her husband from Newark to Hayward and she considered commuting costs to Palo Alto excessive on her salary. Other people commuted between the two localities. It required approximately one-half to three quarters of an hour to commute by private car between Newark and Palo Alto, and approximately one hour between Hayward and Palo Alto. The claimant made no attempt to locate, or join a car pool. The cost of driving a car between Newark and Palo Alto averaged slightly over \$10 per month bridge toll and \$5 per week for gasoline. The claimant had private transportation when she resigned her employment.

Effective June 21, 1959, the claimant filed a claim for benefits in the Hayward office of the Department of Employment. On July 7, 1959, the department determined that the claimant was eligible for benefits beginning June 21, 1959 under section 1253(c) of the code. On this same date the department issued a second determination disqualifying the claimant for benefits for five weeks from June 14, 1959 through July 18, 1959 under section 1256 of the code, and holding her ineligible for benefits under section 1264 of the code. A favorable ruling relieving the employer's account of benefit charges was issued to the employer. The claimant filed a timely appeal from the adverse determination.

The claimant made only two applications for work during the week beginning July 26, 1959 and made no search for work during the week beginning August 2, 1959 when she spent her time moving back to Newark. The evidence establishes that during the remaining weeks involved and prior to the referee's hearing on August 7, 1959, the claimant sought work on an average of two to three days per week. The claimant was unwilling to commute between Hayward and Palo Alto, but she was willing to work anywhere within a 15-mile radius of Hayward; and the department determined that under these circumstances she was available for work. Although the claimant was handicapped by the lack of a car beginning July 10, 1959, she was near public transportation.

The issues are whether the claimant (1) was ineligible for benefits under section 1264 of the code, (2) voluntarily left her most recent work without good cause, and (3) met the availability and search for work requirements of section 1253(c) of the code [now section 1253(e) of the code].

REASONS FOR DECISION

Section 1264 of the Unemployment Insurance Code provides in pertinent part:

"1264. Notwithstanding any other provision of this division, an employee who leaves his or her employment . . . to accompany his or her spouse to . . . 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 . . ."

From the evidence we find that neither the distance and travel time nor the cost of transportation made it impractical for the claimant to commute from her new residence in Hayward to Palo Alto where her work was located. Since it was not impractical to commute, and since there is no evidence to establish that the claimant left her work for marital or domestic duties, section 1264 of the code is not applicable. To the extent that Benefit Decisions Nos. 6261 and 6393 are contrary to our holding herein, they are overruled.

The next question is whether the claimant left her work voluntarily and without good cause under section 1256 of the code. With respect to this issue, the evidence establishes that the claimant decided not to use her own private transportation and did not make a reasonable effort to remain employed by attempting to locate a car pool, or to arrange for transportation to work. She simply decided not to commute between the two localities. Therefore, since it was practical to commute to work, we hold that the claimant left her work for personal and non-compelling reasons within the meaning of section 1256 of the code and she is disqualified for benefits for five weeks (Benefit Decisions Nos. 5820 and 5825).

With respect to the claimant's eligibility for benefits under section 1253(c) of the code, we find that she was available for work, but that her search for work during the two weeks from July 26, 1959 through August 8, 1959 was inadequate (Benefit Decision No. 6241). Therefore, she was ineligible for benefits from July 26, 1959 through August 8, 1959 under the search for work requirement of section 1253(c) of the code [now section 1253(e) of the code].

DECISION

The decision of the referee is modified. Section 1264 is inapplicable. The claimant is disqualified under section 1256 of the code as provided in section 1260 of the code. The claimant is ineligible for benefits from July 26, 1959 through August 8, 1959 under section 1253(c) of the code [now section 1253(e) of the code]. Benefits are denied for these periods, but are otherwise payable provided the claimant is eligible. The employer's account is not chargeable under section 1032 of the code.

Sacramento, California, December 29, 1959.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

ERNEST B. WEBB, Chairman

ARNOLD L. MORSE

WM. A. NEWSOM

Pursuant to section 409 of the Unemployment Insurance Code, the above Benefit Decision No. 6595 is hereby designated as Precedent Decision No. P-B-236.

Sacramento, California, February 17, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSCHGI

HARRY K. GRAFE

RICHARD H. MARRIOTT