

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 4952 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

EMIL T. MADSEN
(Claimant)

WATERFRONT EMPLOYERS'
ASSOCIATION OF CALIFORNIA
(Appellant-Employer)

PRECEDENT
BENEFIT DECISION
No. P-B-240

FORMERLY BENEFIT DECISION No. 4952
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The above-named employer on February 3, 1948, appealed from the decision of a Referee (SF-321) which held that the claimant was not ineligible for benefits under Sections 57(c) [now section 1253(c)], 58(a)(1) [now section 1256], and 58(a)(4) of the Unemployment Insurance Act [now section 1257(b) of the Unemployment Insurance Code].

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

STATEMENT OF FACT

Prior to filing his current claim for benefits, the claimant, a longshoreman, was last employed in Eureka through the Longshoremen's Union hiring hall in that area. He was laid off on August 9, 1946 because of lack of work. Subsequently, on January 6, 1947, the claimant obtained work in San Francisco as a longshoreman. The claimant has been a longshoreman since 1921 and has worked the majority of the time at the Eureka port.

On August 23, 1946, the claimant registered as a longshoreman and filed a claim for benefits in the Eureka office of the Department of Employment. Upon receiving notice that a claim for benefits had been filed

the employer herein protested, and on October 10, 1946, the Department issued a determination which held that the claimant was not ineligible for benefits under Sections 58(a)(1) [now section 1256], 58(a)(4) [now section 1257(b)], and 57(c) of the Unemployment Insurance Act [now section 1253(c) of the code]. The employer herein appealed and a Referee affirmed the determination. The employer has appealed to this Appeals Board from the decision of the Referee.

Although the claimant maintained his permanent residence in Eureka, he moved from Eureka to San Francisco in January 1946, and obtained a monthly work permit in order to be eligible for employment through the hiring hall operated by the Waterfront Employers' Association and Longshoremen's Union in that area. His family remained in Eureka. The claimant worked in the San Francisco area as a longshoreman from January 1946, until May 1946, and at that time he was notified by his local union in Eureka that work would be available for him in Eureka so he returned home. The claimant returned to Eureka because his earnings in San Francisco had been reduced due to a lack of work and he was unable to continue to support two residences on his reduced salary. The claimant obtained work in Eureka in July 1946, and worked until August 6, 1946, when he was laid off for lack of work. Subsequently the claimant filed his current claim for benefits.

As far as the record discloses the claimant, throughout his period of unemployment, was ready, willing, and able to accept work for which he was qualified by training and experience as a longshoreman and was registered with the union hiring hall in Eureka at all times for such work.

REASON FOR DECISION

The Appeals Board has previously held that where a claimant is a permanent resident of a locality and becomes unemployed because industry is no longer able to offer him employment, the claimant is held to have remained a member of the labor force although unable to continue as an active member.

In the instant case the claimant, a permanent resident of Eureka, after becoming unemployed sought to continue as an active member of the labor force. He was registered at the union hiring hall for work in his usual occupation as a longshoreman. There is no evidence in the record to show that the claimant placed any unreasonable restrictions or limitations on acceptable employment. Under these circumstances, we hold that

the claimant's unemployment was due not to his withdrawal from the labor market, but rather to the failure of industry to offer him employment. Therefore, we conclude that the claimant met the availability requirements of Section 57(c) of the Act [now section 1253(c) of the code] during the period involved in this appeal.

The issues arising under Section 58(a) [now section 1256 of the code] and 58(a)(4) of the Act [now section 1257(b) of the code] are based upon the employer's contentions that the claimant did not have good cause to return to Eureka from San Francisco in 1946 and further that he did not have good cause to refrain from returning to San Francisco from Eureka when work was available in the former city and not in the latter.

However, the claimant had good cause to leave his San Francisco employment when his earnings were reduced and he had prospects of almost immediate employment in Eureka, since his home and family were in the latter city and he was required to maintain his two residences when he worked in San Francisco. There is no evidence that a specific offer of re-employment was ever made to him and, in any event, the claimant had good cause to refuse employment offered several hundred miles from his home. Such employment is not suitable, and is not made so simply because the claimant had accepted similar employment in the past.

DECISION

The decision of the Referee is affirmed. Benefits are allowed provided the claimant is otherwise eligible.

Sacramento, California, June 10, 1948.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

TOLAND C. McGETTIGAN, Chairman

MICHAEL B. KUNZ

GLENN V. WALLS

Pursuant to section 409 of the Unemployment Insurance Code, the above Benefit Decision No. 4952 is hereby designated as Precedent Decision No. P-B-240.

Sacramento, California, February 17, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

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