

BEFORE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 5336 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

RALPH HURLEY
(Claimant)

THRIFTY AUTO SALES
(Employer)

PRECEDENT
BENEFIT DECISION
No. P-B-251

FORMERLY BENEFIT DECISION No. 5336
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The above-named claimant on December 20, 1948, appealed from the decision of a Referee (S-8130) which held that the claimant left his most recent work voluntarily without good cause within the meaning of Section 58(a)(1) of the Unemployment Insurance Act [now section 1256 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

The claimant was last employed for three years in Burbank, California, as a service manager for an automobile dealer. He voluntarily left this work on August 18, 1948, and moved to Ohio for reasons hereinafter set forth.

On August 25, 1948, the claimant registered for work and filed a claim for benefits in Ohio against California as the liable state. On October 6, 1948, the Department issued a determination which disqualified the claimant for five weeks on the ground that he had voluntarily left his most recent work without good cause within the meaning of Section 58(a)(1) of the Unemployment Insurance Act [now section 1256 of the code]. The claimant appealed and the Referee affirmed the determination.

The claimant initially stated on filing his claim for benefits that he returned to Ohio because he wished to establish his permanent residence in his home state (Interstate claim form). He later advanced the reason that it was necessary to leave his work in California because his wife's physical condition demanded that she live outside of large cities, that he was unable to have such a home in the metropolitan area where he was employed, and that he returned to Ohio when relatives there secured a home for his family in a rural locality (Interrogatory). Although requested to do so the claimant declined to offer any medical evidence in support of his later statement.

REASON FOR DECISION

In the instant case the claimant has advanced conflicting reasons for his termination. Certainly the claimant's initial statement relative to his leaving would not furnish him with good cause under the statutory provisions of Section 58(a)(1) of the Act [now section 1256 of the code] so as to justify such voluntary termination. In addition the claimant has ignored a request to submit some medical evidence to establish that the condition of his wife was so aggravated by her particular residence in California that a change in location was imperative at the time he left his work. Furthermore, we are impressed by the fact that the claimant neglected to mention his wife's physical condition as a cause for his action when filing his claim for benefits, a fact which would not seem likely had his leaving been necessitated for that reason alone. Under these circumstances, we hold that the claimant voluntarily left his most recent work for reasons not constituting good cause within the meaning of Section 58(a)(1) of the Act [now section 1256 of the code], and is therefore subject to disqualification for the five-week term provided in Section 58(b) of the Act [now section 1260 of the code].

DECISION

The decision of the Referee is affirmed. Benefits are denied.

Sacramento, California, March 25, 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. 5336 is hereby designated as Precedent Decision No. P-B-251.

Sacramento, California, March 2, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSCHGI

RICHARD H. MARRIOTT

DISSENTING - Written Opinion Attached

HARRY K. GRAFE

DISSENTING OPINION

I dissent.

In this case the claimant voluntarily left his job in California and moved to Ohio for the asserted reason that such relocation was necessary because of his wife's physical condition. The claimant failed to furnish any evidence by way of medical verification to substantiate his assertion. Consequently, he did not establish good cause under section 1256 of the code for his voluntary quit and benefits are denied.

I submit that the facts and the rule of law in this case are nearly the mirror image of the facts and the rule of law in Appeals Board Decision No. P-B-117. I can find no need for such duplication and, as the instant case adds nothing, it must be taken as surplusage. In view of the huge caseload facing this Board, we should devote our attention to more pressing contemporary problems instead of retreading ground already well covered by precedent decision.

HARRY E. GRAFE