BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 5027 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

SYLVIA K. STONE
(Claimant)

NORTH AMERICAN AVIATION, INC.
(Employer)

PRECEDENT
BENEFIT DECISION
No. P-B-258

FORMERLY
BENEFIT DECISION
No. 5027

The above-named employer on April 16, 1948, appealed from the decision of a Referee (LA-12124) which held that the claimant had voluntarily left her most recent work with good cause within the meaning of Section 58(a)(1) of the Unemployment Insurance Act [now section 1256 of the Unemployment Insurance Code]. The Referee further held that the claimant was not available for work as required by Section 57(c) of the Act [now section 1253(c) of the 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 approximately sixteen months from May 20, 1946, to September 8, 1947, in Los Angeles as a mathematician in an aircraft plant. She began this work at a wage of $234 per month and had advanced to a wage of $260 at the time she was terminated because of her failure to return on the expiration of a leave of absence. Prior to this the claimant had been employed for twenty-eight months in Cleveland, Ohio by an advisory committee for aeronautics as a supervisor at a wage of $2650 per year. The claimant also has had three years' previous employment experience in California as a school teacher at a salary of $1650 per year.

On March 1, 1948, the claimant registered for work and filed a claim for benefits in the Inglewood office of the Department of Employment. On March 15, 1948, the Department issued a determination which held the claimant ineligible for benefits indefinitely commencing March 1, 1948, on the ground that she was not available for work as required by Section 57(c) of the Unemployment Insurance Act [now section 1253(c) of the code]. From such determination the claimant appealed. A referee held that the claimant was not available for work indefinitely commencing March 1, 1948. The referee further held that the claimant had voluntarily left her most recent work with good cause within the meaning of Section 58(a)(1) of the Act [now section 1256 of the code]. The employer herein has appealed to this Appeals Board from that portion of the Referee's decision which held that the claimant had voluntarily left her most recent work with good cause.

The claimant on September 8, 1947, left her work with the appellant-employer on a leave of absence for pregnancy. The leave expired on February 5, 1948, and the claimant failed to return to work or notify her employer that she would be unable to return at that time. A representative of the employer testified that had an extension been requested by the claimant it probably would have been granted to her.

At a hearing before a Referee on April 6, 1948, the claimant stated that she was unable to return to work on February 5, 1948, because she was nursing her baby. She further testified, however, that she had no intentions of returning to her former work when she took her leave of absence because she had been previously dissatisfied with the general policy of the company and with the rote character of her work. The claimant took a leave of absence in order to protect her rights under a group hospitalization plan.

On March 11, 1948, the claimant signed a statement to the effect that she would not accept any work at a wage less than $350 per month. A representative of the employer testified that the major aircraft corporations pay a prevailing wage ranging from $240 to $287 per month for mathematicians and a wage ranging from $182 to $208 per mouth for technical computers. The prevailing wage scale for mathematicians and computers in other industries ranges from $147 to $230 per month. At the hearing on April 6, 1948, the claimant testified that she was then wiling to accept a wage less than $350 per month provided there was a substantial chance for advancement in the work offered. The claimant knew of no openings which would offer her the possibilities for advancement she desired and stated that in the event that she could not obtain the work she desired she would return to school teaching in the fall.

REASON FOR DECISION

In the instant case, we are not convinced that the claimant had good cause for her failure to return to work for the appellant-employer. The record shows that the claimant, at the expiration of her leave of absence, failed to contact her employer or make arrangements with the employer for an extension of her leave until such time as she was able to return to work. The claimant admits that when she left her work she did not intend to return at the expiration of her leave because she disliked the general policies of the plant and the rote character of her work. Although the claimant personally disliked the work and the plant policies, there is no evidence that the work was unsatisfactory and it does not appear that the claimant's reasons would be good cause for leaving such employment. Considering all the facts, we conclude that on February 5, 1948, the claimant, by her failure to contact the employer in an attempt to obtain an extension of her leave of absence until she was able to return to work, voluntarily left her work without good cause within the meaning of Section 58(a)(1) of the Act [now section 1256 of the code] and for such leaving is subject to disqualification from benefits under the provisions of Section 58(b) of the Act [now section 1260 of the code].

Under the facts of this case, it cannot be said that the claimant is unemployed through no fault of her own, nor can it be said that she has satisfactorily demonstrated that she was genuinely in the labor market and, therefore, available for work as required by Section 57(c) of the Act [now section 1253(c) of the code]. On March 11, 1948 the claimant stated that she would not accept a wage of less than $350 per month, which is above the prevailing rate for work within her qualifications in the locality of her residence. At the hearing on April 6, 1948, the claimant testified that she would then accept a lesser wage provided there was substantial chance for advancement in the work offered. However, the claimant had been dissatisfied with the type of work she was performing for sixteen months in her last employment and she testified that unless she was able to find the work she desired she would return to school teaching in the fall. Under these circumstances we conclude that the claimant had, in effect, withdrawn from the labor market, and therefore was not available for work as required by Section 57(c) of the Unemployment Insurance Act [now section 1253(c) of the code] during the period involved in this appeal.

DECISION

The decision of the Referee is modified. Benefits are denied under Section 57(c) of the Act [now section 1253(c) of the code] for the period involved in this appeal, and thereafter until the claimant meets the eligibility requirements of the Act. Benefits are denied under Section 58(a)(1) of the Act [now section 1256 of the code] for the week following February 5, 1948, in which she first made a valid registration for work and for four weeks following such week, in accordance with the terms of Section 58(b) of the Act [now section 1260 of the code].

Sacramento, California, August 19, 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. 5027 is hereby designated as Precedent Decision No. P-B-258.

Sacramento, California, March 9, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSCHGI

HARRY K. GRAFE

RICHARD H. MARRIOTT