

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 5237 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

MELVIN M. KAPLAN
(Claimant)

DOUGLAS AIRCRAFT COMPANY
(Employer)

PRECEDENT
BENEFIT DECISION
No. P-B-284

FORMERLY BENEFIT DECISION No. 5237
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The above-named, employer on August 2, 1948, and the claimant on July 30, 1948, appealed from the decision of a Referee (LA-14253) which held that the claimant (1) left his most recent work voluntarily with good cause within the meaning of Section 58(a)(1) of the Unemployment Insurance Act [now section 1256 of the Unemployment Insurance Code], and (2) did not meet the availability requirements of Section 57(c) of the statute [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 from 1939, to 1947, except for two years when he served in the armed forces, as a production worker for a large aircraft manufacturing company in Santa Monica, California. He voluntarily left this work on September 30, 1947, for reasons hereinafter set forth.

On June 16, 1948, the claimant registered for work and filed a claim for benefits in the Hollywood office of the Department of Employment.

Thereafter, on June 29, 1948, the Department issued a determination which disqualified the claimant for five weeks beginning June 16, 1948, on the ground that he had left his most recent employment voluntarily without good cause within the meaning of Section 58(a)(1) of the Unemployment Insurance Act [now section 1256 of the code]. From such determination the claimant appealed. The Referee held that the claimant was eligible for benefits under the provisions of Section 58(a)(1) of the Act [now section 1256 of the code] but that he did not meet the availability requirements of Section 57(c) of the statute [now section 1253(c) of the code].

Immediately prior to the termination of his work, the claimant determined to enter a college in Los Angeles, and for this reason resigned from his employment on September 30, 1947. Thereafter, he pursued a course of study as a regularly enrolled student until the close of the school term for summer vacation in June, 1948. At the hearing before the Referee on July 21, 1948, the claimant testified that he wanted only temporary work because he intended to continue his studies at a college located in another part of the state beginning on or about August 1, 1948. The claimant stated that he had contacted a public utility company in the area relative to a help wanted advertisement but was not hired when the company learned that he expected to resume his studies in a short time. In addition, he has asked for temporary work at various bicycle and repair shops in the locality, but without success.

A representative of the Department testified that only limited opportunities for temporary work exist in the vicinity for persons with the claimant's training and experience and then only if they are willing to accept unskilled positions such as manual labor.

According to this representative, local employers "won't break them in for a short period, they want permanent workers." In this respect the claimant testified that because of a back injury he could perform no duties which would require any heavy lifting, any bending over, or which would "Put any strain on my back."

REASON FOR DECISION

In the instant case the first question before us is whether the claimant's reason for quitting his last work on September 30, 1947, was of such a compelling nature as to justify a finding of good cause for his leaving.

In our opinion it was not. While a desire for self-advancement through education is commendable and perfectly understandable, nevertheless it does not, in our opinion, constitute good cause for leaving work, or, in the absence of any statutory requirement for school attendance, present that element of compulsion necessary to justify the payment of unemployment insurance benefits. Therefore, we hold that the claimant is subject to disqualification for benefits under Section 58(a)(1) of the Act [now section 1256 of the code] for the five-week term provided in Section 58(b) of the statute [now section 1260 of the code].

The second issue is whether the claimant met the statutory requirement of availability for work under Section 57(c) of the Act [now section 1253(c) of the code] while waiting to resume his college studies. Availability is principally a question of fact to be determined from all the circumstances which exist in a particular case, and from the evidence in this matter we are not convinced that the claimant herein has met the requirements.

Admittedly, the claimant's desire to continue his college education was his primary consideration, while obtaining work during vacation intervals between semesters was only a secondary one. Accordingly, he was in a labor market only to the extent that work opportunities existed which might be adjusted to meet this personal requirement. In other words, his availability was limited to those temporary openings which might be found on the periphery of the normal labor market for persons customarily seeking employment in regular full-time permanent positions. The evidence indicates that a great many prospective employers in the area were reluctant to hire persons without some assurance of permanency, yet the claimant was not willing to enter the labor market under such a condition, although it would have appreciably augmented his opportunities to obtain suitable work. The record reveals that there were some prospects of securing laboring work on a temporary basis but because of his physical condition the claimant was willing to consider such employment only on an extremely limited basis. When this restriction is considered, together with the cumulative effect of the other evidence, we agree with the Referee that the claimant's employment field was substantially reduced. Accordingly, under the facts of this case, we hold that the claimant failed to meet the availability requirements of Section 57(c) of the Act [now section 1253(c) of the code] during the period involved in this appeal.

DECISION

The decision of the Referee is modified. The claimant is held to be disqualified for benefits under Section 58(a)(1) of the Act [now section 1256 of the code] for a five-week period commencing with the week following September 30, 1947, in which he first makes a valid report at a public employment office, and for the next four succeeding weeks in which he makes a valid report to a public employment office. The claimant is held to be not available for work under Section 57(c) of the statute [now section 1253(c) of the code] for the period involved in this appeal. Benefits are denied for this period and thereafter until the claimant meets the eligibility requirements of the Act.

Sacramento, California, December 16, 1948.

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. 5237 is hereby designated as Precedent Decision No. P-B-284.

Sacramento, California, April 6, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSCHGI

HARRY K. GRAFE

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