

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 5301 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

ALBERT PALMER

PRECEDENT
BENEFIT DECISION
No. P-B-295

FORMERLY BENEFIT DECISION No. 5301
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The above-named claimant on November 5, 1948, appealed from the decision of a Referee (LA-16272) which held that he was ineligible for benefits under 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, who is over fifty years of age, was last employed for eight and one-half months as a warehouseman by a Los Angeles firm. He left this work on September 30, 1948, under conditions hereinafter described.

On October 4, 1948, the claimant registered for work and filed a claim for benefits in the Santa Monica office of the Department of Employment. On October 6, 1948, the Department issued a determination disqualifying the claimant for benefits for a five-week period under Section 58(a)(1) of the Act [now section 1256 of the code], on the ground that he had voluntarily left his most recent work without good cause. The claimant appealed and a Referee affirmed the determination.

When the claimant accepted work with his last employer as a warehouseman, he was required to perform duties in one of three warehouses. These duties dealt with about ten percent of the employer's warehouse activities. As business declined, the employer in a move to save costs, combined all of his warehouse activities into one large plant. The claimant who had previously been required to lift and stack not over 300 cases of asphalt and tile weighing from 65 to 80 pounds during a ten-day period was now required to handle 1,000 cases. Previously he had had part-time help from another employee when shipments arrived, but this employee had been laid off. All of the work had to be done by hand since there was no machinery to help with the stacking of the cases of tile and asphalt. Believing he was unable to handle the heavier work, the claimant requested part-time assistance which the employer refused. The claimant did not consider himself able to continue the heavy assignment and resigned.

On October 14, 1948, the superintendent at the claimant's last place of employment wrote to the Department as follows:

"At the time Albert Palmer put in his resignation he asked me if it was possible to re-engage the driver that had been laid off. I took it up with the main boss and it was vetoed as the firm has to take up their belts and to save money. When Palmer worked here, two drivers were employed. He had help to stack the tile, and so forth. Also eight and a half months ago we only had one third the capacity as we had three warehouses. The past seven weeks we have consolidated all material in one warehouse. In view of Palmer's age (over fifty), I feel he was justified in leaving said work when he was told no extra help would be forthcoming. We parted with no ill-feeling."

REASON FOR DECISION

It is undisputed that the claimant voluntarily left his work within the meaning of Section 58(a)(1) of the Unemployment Insurance Act [now section 1256 of the code] and the issue is whether he did so with good cause.

The claimant herein was initially employed to perform duties which were one-third as heavy as he was required to do for the seven weeks period prior to leaving. Recognizing his physical inability to continue performing such heavy work over a period of time without possible jeopardy to his health, he requested part-time help. His employer refused this request, not because he failed to appreciate the claimant's need for help, but because he was retrenching his costs and could not afford this needed assistance. In fact, the superintendent agreed that considering the claimant's age and the refusal of his request for assistance, he had good cause for resigning. In view of these facts and circumstances, we hold that the claimant voluntarily left his work with good cause under Section 58(a)(1) of the Act [now section 1256 of the code] and therefore is not subject to disqualification.

DECISION

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

Sacramento, California, February 24, 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. 5301 is hereby designated as Precedent Decision No. P-B-295.

Sacramento, California, April 13, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSCHGI

HARRY K. GRAFE

RICHARD H. MARRIOTT