

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 6233 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

JOHN J. STORONIAK
(Claimant-Appellant)

PRECEDENT
BENEFIT DECISION
No. P-B-299

FORMERLY BENEFIT DECISION No. 6233

STATEMENT OF FACTS

This claimant appealed to a referee from a determination of the Department of Employment which held the claimant ineligible for benefits under section 1309 of the Unemployment Insurance Code [now section 1264 of the code]. On April 16, 1954, the California Unemployment Insurance Appeals Board set aside the decision of the referee and removed the matter to itself under section 1336 of the code [now section 413 of the code].

The claimant, a single man, was last employed in California as an electronics technician in Los Angeles. He left this work August 28, 1953, and returned to New York City to live with his parents.

At the time he filed his claim for benefits, the claimant stated that he quit his last employment in order to move to New York City and live with his mother who was ill. At the hearing he stated that his father was employed and that his sister and another brother resided in the household and that it was not necessary for him to care for his mother. The claimant wanted to return home because his younger brother was being drafted into the Armed Services in December. He returned in September because opportunities for employment were better at that time of year. The claimant had resided in New York until he moved to California in 1952, and he intends to live in New York permanently.

On September 10, 1953 the claimant registered for work and filed a claim for benefits against California as the liable state in the New York City office of the New York State Employment Service. The claimant obtained employment on September 18, 1953, which lasted until December 11, 1953. On December 14, 1953, the claimant filed an additional claim for benefits. On January 4, 1954, the California Department of Employment issued a determination holding the claimant ineligible for benefits for an indefinite period commencing September 10, 1953, under section 1309 of the Unemployment Insurance Code [now section 1264 of the code].

REASONS FOR DECISION

Section 1309 of the code (formerly section 58.1 of the act) [now section 1264 of the code] provides:

"Notwithstanding any other provision of this division, an employee who leaves his or her employment to be married or to accompany his or her spouse to or join her or him at a place from which it is impractical to commute to such employment or whose marital or domestic duties cause him or her to resign from his or her employment shall not be eligible for unemployment insurance benefits for the duration of the ensuing period of unemployment and until he or she has secured bona fide employment subsequent to the date of such voluntary leaving; provided that, notwithstanding any other provision of this division, this section shall apply only to claims for unemployment compensation benefits and shall not apply to claims for unemployment compensation disability benefits. The provisions of this section shall not be applicable if the individual at the time of such voluntary leaving was and at the time of filing a claim for benefits is the sole or major support of his or her family."

Section 1256 of the code (formerly section 58(a)(1) of the act) provides that an individual shall be disqualified for benefits if he left his most recent work without good cause.

In the instant case, the claimant was not removing himself from the labor market but was merely transferring from one labor market to another. He was not leaving his employment to remain at home but to seek employment in another area and in fact he did secure employment almost immediately upon arriving in New York. (Benefit Decision No. 6199) In our opinion, the claimant did this because of a personal preference to return to his former home. Accordingly, the claimant is not subject to the provisions of section 1309 of the code [now section 1264 of the code] but is subject to the provisions of section 1256 of the code. We have previously held that a leaving of work to return to a former residence and labor market is not with good cause within the meaning of section 1256 of the code (Benefit Decisions Nos. 5097 and 5245).

DECISION

The determination of the department is modified. The claimant is not ineligible under section 1309 of the code [now section 1264 of the code]. The claimant is disqualified for a five-week period commencing September 10, 1953 under section 1256 of the code.

Sacramento, California, February 4, 1955.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

MICHAEL B. KUNZ, Chairman

GLENN V. WALLS

EDWARD CAIN

Pursuant to section 409 of the Unemployment Insurance Code, the above Benefit Decision No. 6233 is hereby designated as Precedent Decision No. P-B-299.

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