BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT DECISION NO. 6229 AS A PRECEDENT DECISION PURSUANT TO SECTION 409 OF THE UNEMPLOYMENT INSURANCE CODE.

In the Matter of:

EVA J. SHUMATE
(Claimant)

LAURA FRANCES HOME
(Employer)

PRECEDENT
BENEFIT DECISION
No. P-B-301

FORMERLY
BENEFIT DECISION
No. 6229

STATEMENT OF FACTS

The above-named employer appealed from the decision of a referee which held that the claimant was not subject to disqualification under section 1256 of the Unemployment Insurance Code and that the employer's account is chargeable with respect to benefits paid to the claimant under section 1032 of the code.

The claimant was last employed for approximately three years as a practical nurse and general worker in a rest home in Hayward. She left her work on June 28, 1954, for reasons hereinafter set forth.

Effective August 8, 1954, the claimant registered for work and filed her claim for benefits in the Hayward office of the Department of Employment. On August 23, 1954, the Department issued a determination and ruling under sections 1256 and 1030 of the Unemployment Insurance Code, holding that the claimant had left her most recent work voluntarily and without good cause and the claimant was disqualified for five weeks commencing August 8, 1954. The claimant appealed to a referee, who reversed the determination and ruling of the Department.

When the claimant began to work with the appellant, she worked on a part-time basis. Subsequently, her hours were increased and during the year prior to June 28, 1954, the claimant generally worked full time, approximately forty hours each week.

On or about June 28, 1954, the claimant was notified by the employer that thereafter her hours would be reduced to sixteen each week, that is to two days per week, at the same hourly rate of pay. The claimant refused to accede to the change in hours, but offered to work vacation relief. This offer was not accepted and the claimant left her work without making any prior investigation as to employment elsewhere.

REASONS FOR DECISION

This board has consistently held that good cause for a voluntary leaving of work exists only in those situations where the facts disclose a real, substantial, and compelling reason for leaving work, of such nature as would cause a reasonable person genuinely desirous of retaining employment to take similar action (Benefit Decision No. 5686).

In Benefit Decision No. 5736, where there was no reduction in the rate of pay but the claimant's hours were reduced by more than fifty percent, we held that the claimant left his work with good cause because the facts showed that, prior to resigning, the claimant had made a diligent but unsuccessful search for work in the locality and had obtained some assurance that full-time work was available in another community.

In the instant case, the facts are distinguishable from the facts of the case last cited in that the claimant left her work without making any effort to obtain other employment on a full-time basis. She has presented no evidence to show that working part-time would have caused any undue hardship which would require her instead to become totally unemployed. There was nothing to prevent the claimant from seeking other work while working on a part-time basis, as she would have had ample time to do so. Under the circumstances here presented, it is our conclusion that the claimant voluntarily left her work without good cause within the meaning of sections 1256 and 1030 of the Unemployment Insurance Code.

In Benefit Decision No. 4993 the claimant had been employed on a full-time basis at a rate of $10.00 per day. He voluntarily resigned his employment when the employer reduced the amount of work available to two days per week. Under such facts, we held that the claimant had good cause for leaving his work since the effect of the employer's action was to reduce the claimant's wages to less than half their former amount. Insofar as this decision purports to hold that a substantial reduction in wages may constitute good cause for a leaving of work without regard to the fact that the loss of wages was due to a reduction in hours of work rather than a reduction in hourly pay, it is hereby expressly overruled.

DECISION

The decision of the referee is reversed. The claimant is subject to disqualification under section 1256 of the code for the five-week period provided in section 1260. Benefits are denied. Any benefits paid to the claimant which are based upon wages earned from the employer prior to June 28, 1954, shall not be chargeable under section 1032 of the code to employer account number XXX-XXXX.

Sacramento, California, January 28, 1955.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

MICHAEL B. KUNZ, Chairman

GLENN V. WALLS

EDWARD CAIN

P-B-301

Pursuant to section 409 of the Unemployment Insurance Code, the above Benefit Decision No. 6229 is hereby designated as Precedent Decision No. P-B-301.

Sacramento, California, May 4, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

MARILYN H. GRACE

CARL A. BRITSCHGI

HARRY K. GRAFE

RICHARD H. MARRIOTT

DISSENTING IN PART - Separate Opinion Attached

DON BLEWETT, Chairperson

SEPARATE OPINION

While I would agree with my colleagues that a reduction in hours of work, standing alone, does not constitute good cause for leaving of employment, it is my view that the all-encompassing decision of the majority goes too far. Most notably, it does not provide leeway for the vicissitudes of the market place, and does not accommodate the realities which must be faced by working people who sustain very substantial reductions in income when their hours of work are significantly cut.

Experience has demonstrated that a reduction in hours of work may be so devastatingly severe as to compel a claimant to quit. Frequently the concommitant costs of transportation to the place of employment, obtaining meals, acquiring or replacing appropriate wearing apparel, child care expenditures and other expenses related to retaining employment may be so great that continuing to work may cost more than the wages received. In short, a reduction in hours may well result in a claimant's receiving less than a living wage. We have previously held that a claimant has good cause to quit when he is not paid a living wage (Benefit Decision No. 5773). Consequently, I believe that the majority goes too far when it holds that any reduction in working hours proscribes good cause for leaving of employment. In my view, it would be preferable to establish the principle that a cut in working hours that reduces a claimant's income to less than a living wage does constitute good cause for quitting.

Consequently, I concur in the majority position that leaving work because of reduction of hours of work, standing alone, does not constitute good cause for quitting. However, I would modify that concept and would hold that in those circumstances where the affect of such reductions in hours would result in a claimant being deprived of a living wage, there would be a compelling reason to terminate within the meaning of Appeals Board Decision No. P-B-271.

Additionally, and parenthetically, I do not read the majority decision as sanctioning any employer practice which seeks to prevent a claimant from qualifying for unemployment insurance benefits by grossly reducing hours of work. In those circumstances, I take it that my colleagues, in a proper case, would recognize a claimant's entitlements.

DON BLEWETT