

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 4841 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

CHRISTEEN C. BRANCHARD
(Claimant)

B. F. GOODRICH COMPANY
(Employer)

PRECEDENT
BENEFIT DECISION
No. P-B-304

FORMERLY BENEFIT DECISION No. 4841
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The above-named employer on January 21, 1948, appealed from the decision of a Referee (LA-10704) which held that the claimant had refused an offer of suitable employment with good cause and was not subject to disqualification from benefits within the meaning of Section 58(a)(4) of the Unemployment Insurance Act [now section 1257(b) 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 was last employed for approximately twenty months as a boxer and splicer of tubes at a rubber products manufacturing company at a terminating wage of \$1.15 per hour. She voluntarily left her work on June 25, 1947, because of the illness of her child, who required the claimant's constant care for a period.

On July 1, 1947, the claimant registered for work and filed a claim for benefits in the Alhambra office of the Department of Employment. She was held to be unavailable for work at the time, but on July 16, 1947, she was found to be available for work and eligible for benefits. The claimant

had worked for the employer on the 6:00 p.m. to midnight shift. On November 10, 1947, the employer offered the claimant re-employment at the same work as she had performed previously, at a starting wage of 84½¢ per hour, which according to the employer, would have brought the claimant back to the rate of \$1.15 per hour within a few days because payment is on a piecework basis partially, and the claimant's former experience assured her of greater earnings. She was offered a choice of the 6:00 p.m. to midnight shift or the midnight to 6:00 a.m. shift.

On November 14, 1947, the claimant called at the employer's office and refused to accept the offer of employment because it involved night shift work. On November 18, 1947, the employer notified the Department of the claimant's refusal of an offer of employment and questioned the claimant's eligibility for benefits. On December 3, 1947, the Department issued a determination holding that the claimant had good cause for refusing the offer. The employer appealed to a Referee, who affirmed the determination of the Department.

The claimant testified that she left her former employment because her nine-year-old son was ill with rheumatic fever. At the time the offer of reemployment was made, the boy was recovered from the acute phase of his illness but still required careful watching to avoid conditions which might cause a relapse. The claimant stated that she was unwilling to accept night shift work because she wished to be home to care for the child at that time, particularly since she had no telephone in her home. She testified that her sister-in-law could care for the child during the day, so the claimant was free to accept daytime work. She placed no unreasonable restrictions upon her availability for such work, and a labor market for her services exists in the area.

The employer presented evidence that all work in the rubber industry is on a twenty-four hour per day basis and that seniority provisions of the collective bargaining agreement precluded offering the claimant any work on the day shift.

REASON FOR DECISION

Section 58(a)(4) of the Unemployment Insurance Act [now section 1257(b) of the code] provides for the disqualification of a claimant who fails to accept suitable employment without good cause.

In the instant case, there is no question that the work refused by the claimant on November 14, 1947, was suitable employment. It was the same work the claimant had performed most recently and was offered under substantially the same conditions of pay. In fact, the claimant does not contend that the work was not suitable but only that her personal domestic circumstances gave her good cause to refuse it.

It is our opinion that the claimant had good cause for refusing the offer of re-employment. In view of the serious illness which her child had recently suffered, and the known dangers of serious consequences following this type of illness if proper care is not given, the claimant's desire to be at home with her sick child in the evenings is understandable and based upon good cause. During the day, when the claimant's sister-in-law could take care of the child, the claimant was willing to accept employment.

Although the employer contends with some merit that seniority provisions in collective bargaining agreements prevented offering the claimant daytime work, this has no bearing upon the validity of the claimant's reason for refusing evening employment. It is not contended that the claimant has removed herself from the labor market; in fact, it is indisputable that the claimant is holding herself available for work during the normal working hours in most industries. The fact that the claimant had formerly worked on a night shift is immaterial in view of the change in the claimant's circumstances since that time -- a change which was responsible for the claimant's terminating her night work some months previously.

DECISION

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

Sacramento, California, April 15, 1948.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

TOLAND C. McGETTIGAN, Chairman

MICHAEL B. KUNZ

Pursuant to section 409 of the Unemployment Insurance Code, the above Benefit Decision No. 4841 is hereby designated as Precedent Decision No. P-B-304.

Sacramento, California, May 4, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

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