

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 6369 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

LYLE ZIMMERMAN
(Claimant-Appellant)

PRECEDENT
BENEFIT DECISION
No. P-B-308

FORMERLY BENEFIT DECISION No. 6369

STATEMENT OF FACTS

The above-named claimant appealed from the decision of a referee which affirmed a determination of the department disqualifying the claimant for benefits under the Unemployment Insurance Code.

A private employment agency in Oakland referred the claimant to work as a maintenance man. He accepted the referral and was interviewed by the employer on March 11, 1955. He was instructed to report for work on March 12, 1955. Prior to reporting for work, the claimant had "a few drinks"; and, when he reported to work he was told by the foreman that inasmuch as he had been drinking there was no work for him.

The claimant was a member in good standing of the Steamfitters Union and, when employed in his regular trade, received \$3.30 per hour. The work to which the claimant was referred by the private agency paid \$1.74 per hour. The claimant contends that, inasmuch as the job was not in his usual occupation and paid considerably less than the wage he earned in his regular trade and since he was referred by a private agency, the work was not suitable.

Effective February 13, 1955, the claimant registered for work and filed a claim for unemployment compensation benefits in the Oakland Industrial Office of the Department of Employment. On March 25, 1955, the department issued a determination holding the claimant had refused suitable work without good cause within the meaning of Section 1257(b) of the Unemployment Insurance Code; and benefits were denied for five weeks from March 13, 1955 through April 16, 1955.

On April 1, 1955, the claimant appealed to a referee from the department's determination. From the referee's adverse decision, the claimant on June 9, 1955 appealed to the Appeals Board.

The question presented to us for decision is whether claimant's conduct was tantamount to a refusal to accept suitable work or whether he should be held to have been discharged for misconduct.

REASONS FOR DECISION

Section 1256 of the code provides that a claimant who has been discharged for misconduct connected with his most recent work is disqualified for unemployment compensation benefits.

Section 1257(b) of the Unemployment Insurance Code provides that an individual is disqualified for benefits if:

"He, without good cause, refused to accept suitable employment when offered to him or failed to apply for suitable employment when notified by a public employment office."

In the instant case the claimant was referred to employment, interviewed, and was offered employment commencing the next day. However, he reported to work in a condition which precluded his entering upon the job. Although he contends the work was not suitable, his contention is without merit inasmuch as he was fully aware of the conditions of employment and accepted them. The claimant had not actually commenced, to perform any work. We therefore hold that he was not discharged for misconduct in connection with his most recent work but that he, without good cause, refused to accept suitable employment when offered to him (Benefit Decision No. 5868).

DECISION

The decision of the referee is modified. Benefits are denied for five weeks under Sections 1257(b) and 1260 of the code.

Sacramento, California, October 7, 1955.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

MICHAEL B. KUNZ, Chairman

GLENN V. WALLS

ARNOLD L. MORSE

Pursuant to section 409 of the Unemployment Insurance Code, the above Benefit Decision No. 6369 is hereby designated as Precedent Decision No. P-B-308.

Sacramento, California, May 4, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSCHGI

HARRY K. GRAFE

RICHARD H. MARRIOTT