

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 2039 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

BEA H. BOYSEN
(Claimant)

LEES READY TO WEAR
(Employer)

PRECEDENT
BENEFIT DECISION
No. P-B-310

FORMERLY BENEFIT DECISION No. 2039
--

The above-named employer on December 26, 1945, appealed from the decision of a Referee (R-5828-27812-45) which held that the claimant had not refused an offer of suitable employment without good cause and therefore was not subject to disqualification from benefits under 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 four years as a saleslady in the dress shop of the appellant-employer at Modesto, California, at a wage of \$50.00 per week. She voluntarily left on July 14, 1945, because she believed the work was making her nervous. She had previously worked for another employer in Modesto for seven years as a ladies' ready-to-wear saleslady at a wage of \$25.00 per week.

On September 4, 1945, the claimant registered as a ladies' ready-to-wear saleslady and filed a claim for benefits in the Modesto office of the Department of Employment. On October 3, 1945, the Department issued a determination which disqualified the claimant from benefits for the period from September 25, 1945, through October 29, 1945, on the ground that she had refused suitable employment without good cause within the meaning of Section 58(a)(4) of the Act [now section 1257(b) of the code]. The claimant appealed and a Referee reversed the determination. The Referee held that the claimant had not refused suitable employment without good cause. The claimant's last employer has appealed to this Appeals Board from the decision of the Referee.

On September 25, 1945, the claimant was referred as a saleslady to the Modesto department store where she had been employed prior to her last position. The claimant interviewed the prospective employer who informed her that there were no openings for a saleslady in the ready-to-wear department. The claimant's unrefuted testimony as to the interview when questioned by the Referee is as follows: "A. Well, he said I would love to have you sometime but right this minute I have nothing for you, but if I have an opening in the ready to wear I will call you. Q. Where was the opening when you got there? A. He didn't even tell me, he said you could work out front some place in the notions or in some yardage. I don't know anything about yardage. I said I would like to work in the profession I have always worked at."

There is no evidence in the record before us as to the wages, hours or working conditions of the prospective work in notions or yardage, nor does the record disclose that the claimant was informed thereof. The claimant's entire sales experience has been confined to ready-to-wear garments, and she did not believe that she could sell notions or yardage satisfactorily because of her lack of experience in these types of dry goods.

REASON FOR DECISION

We have held in a number of previous cases that before a disqualification may be imposed for refusing suitable employment without good cause, it must be shown (1) that an opening actually existed at the time the offer was made, and (2) that the claimant was given sufficient information

relative to the duties, hours of work, and working conditions so that the claimant is able to determine whether the work, in his opinion, is suitable and if any reason exists which would constitute a cause for its refusal (See Case 1433-3988 and others).

In this case, the claimant was referred by the Employment Service to a position with a department store as a sales person. She accepted the referral and called upon the prospective employer, but was informed by him that there were no openings in the claimant's usual occupation as a sales person of ladies' ready-to-wear. The evidence indicates that there may have been some discussion of a position involving the sale of notions and yardage. She testified that she was not informed of any of the details concerning a specific opening, nor, as far as the record shows, was there any information given her concerning the wages, hours and working conditions of the prospective position. Under these facts, we are unable to find that the claimant was offered suitable employment and refused the offer without good cause. Therefore, she is not subject to disqualification from benefits under Section 58(a)(4) of the Unemployment Insurance Act [now section 1257(b) of the code].

In appealing to this Appeals Board, the appellant-employer states as one of his contentions that since the claimant had left her last work because of nervousness, she should be disqualified from benefits on the ground that she was not able to work as required by Section 57(c) of the Act [now section 1253(c) of the code]. However, there is no evidence before us to support the contention that the claimant was not able to work. As far as the record shows, she was ready, willing and able to accept suitable employment without unreasonable restriction or limitation and therefore met the eligibility requirements of Section 57(c) of the Act [now section 1253(c) of the code].

The appellant-employer further contends that there was a need for experienced sales persons in the area and that the claimant should not be paid benefits during a period when there was no shortage of suitable openings. According to the evidence, however, the claimant was properly registered for work with the United States Employment Service in each week for which she claims benefits; she refused no offers of suitable employment, and she remained unemployed because of the inability of the Employment Service to find a suitable opening for her.

DECISION

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

Sacramento, California, March 1, 1946.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

TOLAND C. McGETTIGAN, Chairman

MICHAEL B. KUNZ

EDGAR E. LAMPTON

Pursuant to section 409 of the Unemployment Insurance Code, the above Benefit Decision No. 2039 is hereby designated as Precedent Decision No. P-B-310.

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