

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 5718 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

JEAN M. DAUM
(Claimant)

PRECEDENT
BENEFIT DECISION
No. P-B-316

FORMERLY BENEFIT DECISION No. 5718
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The above-named claimant on October 24, 1950, appealed from the decision of a Referee (SF-20619) which held that the claimant was not entitled to benefits under the Unemployment Insurance Act.

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 as an office clerical worker for a period of two years and four months by an Oakland electrical supply company, and was terminated by a reduction in force layoff on or about April 19, 1949, at a termination wage of \$185 per month. The claimant has had prior office clerical experience which included the operation of some types of bookkeeping machines.

On June 12, 1950, the claimant registered for work and filed a claim for benefits in the Hayward office of the Department of Employment. On September 5, 1950, a determination was issued by the Department

assessing a disqualification for the period beginning August 28, 1950, and ending October 1, 1950, under the provisions of Section 58(a)(4) of the Unemployment Insurance Act [now section 1257(b) of the Unemployment Insurance Code].

This determination was predicated upon the fact that the claimant had refused a referral to suitable employment without good cause on August 30, 1950. The determination of September 5, 1950, additionally held the claimant ineligible for benefits for an indefinite period beginning August 21, 1950, under the provisions of Section 57(c) of the Act [now section 1253(c) of the code], on the ground that restrictions placed by the claimant with respect to location, salary, and hours of employment acceptable to her, resulted in her being unavailable for work within the meaning of the Act. The claimant appealed to a Referee who affirmed the determinations.

The claimant resides approximately two miles from the village of Pleasanton, Alameda County, California, and approximately fifteen miles from Hayward. The claimant's husband is employed in the City of Oakland, and it is the claimant's desire to obtain employment in the central business district of Oakland between the hours of 8:00 a.m. and 5:00 p.m., so that advantage may be taken of transportation available with her husband, who travels by automobile. The claimant does not desire employment in locations other than Oakland, owing to the transportation factor, as employment in Hayward or other communities not on her husband's route to work, would entail additional transportation time and cost, although the claimant would accept employment in Hayward at a minimum salary of \$200 per month during the hours of 9:00 a.m., to 5:00 p.m. five days per week. The prevailing rate of pay related to work for which the claimant is qualified, in Hayward, is approximately \$175 per month.

On August 30, 1950, the claimant was interviewed in the Oakland office of the Department and informed of a position in full-time employment, located on the northern fringe of the Oakland business district. The claimant was informed the position called for qualification as a typist and comptometer operator. The claimant is not a qualified typist and was not given a referral to the employment. On the same day referral to part-time work within the claimant's qualifications was also discussed with her. This work was for four hours per day, four days per week at an hourly rate of \$1.25. The claimant stated this part-time work was represented to her as being four hours per day, two days per week. The claimant informed the interviewer that she was not interested in part-time employment.

Subsequent to the filing of the claim in June, 1950, the claimant contacted two Oakland employers, where she was formerly employed, and registered with several private agencies, in addition to the public employment service. There has been no action on her part to secure employment in Pleasanton, Hayward, or any other communities within reasonable commuting distance from her home. Public transportation is available from Pleasanton, which claimant could utilize to reach such points, and in addition, private transportation, other than that used by her husband, is also available to the claimant.

REASON FOR DECISION

To be considered available for work, a claimant must be ready, willing and able to accept suitable employment in his usual occupation or in an occupation for which he is reasonably fitted by training and experience. Limitations and restrictions which materially reduce the possibilities of obtaining employment render the claimant not available for work as required by the Unemployment Insurance Act (Benefit Decision. No. 5484-12754).

In the instant case the claimant informed the Department that she would only accept work in the central business district of Oakland between the hours of 8:00 a.m. and 5:00 p.m., in order that she could ride with her husband. While this factor alone is not conclusive in determining the claimant's availability, when it is considered together with the facts that she has been unemployed for more than eighteen months, her unavailability for work at the prevailing wage scale in the communities close to her home and her negligible search for work in the area acceptable to her, it supports a conclusion that the claimant is not genuinely in a labor market. We conclude that the claimant has not been available for work during the period involved herein as required by Section 57(c) of the Act [now section 1253(c) of the code], since her restrictions had the effect of materially reducing her prospects of prompt reemployment.

The full-time position discussed with the claimant on August 30, 1950, was not suitable work since it required typing and the claimant is not a qualified typist. However, the part-time position to which referral was available to the claimant was in the locality designated as acceptable to her and was work for which she was qualified. Although the full details of the employment were not discussed with the claimant, since the claimant refused to consider the work without inquiring into such details, we are of the opinion that

the claimant reasonably should have investigated the potential employment to ascertain whether suitable arrangement could be made with respect to the hours of employment.

The instant case is readily distinguishable from Benefit Decisions Nos. 3770-5958 and 4993-10319 wherein this Appeals Board considered refusals of part-time work. In Benefit Decision No. 3770-5958, the claimant had been unemployed for approximately six weeks. The part-time employment which the claimant refused was for three and one-half hours a day, two days a week, at a total weekly wage of \$4.20 prior to deductions. Under those circumstances we held that the offered employment was not suitable and that the claimant had good cause for his refusal. The claimant in the latter of the cited cases had been employed on a full-time basis for approximately eighteen months. His employer reduced his work week to three days with a substantial decrease in wages. We held that the claimant had good cause for leaving this work. Thereafter the same employer offered the claimant the same work he had previously performed full time on a two day per week basis at a salary proportionate with his reduced hours of work. We held the claimant had good cause for refusing the offered employment under Section 13(a) of the Unemployment Insurance Act [now sections 1258-1259 of the code]. The claimant herein had been unemployed for approximately eighteen months and placed restrictions upon her availability which removed her from a substantial portion of the labor market. Since the offered work met all her requirements except as to the number of hours per week she would work it was incumbent upon the claimant, in view of her extended unemployment, to make every effort to secure this work and to search for acceptable full-time work during her off hours. Upon consideration of all the circumstances we conclude that the part-time work discussed with the claimant on August 30, 1950, was suitable work within the meaning and intent of Section 13(a) of the Unemployment Insurance Act [now sections 1258-1259 of the code]. Her refusal to consider this part-time position is held to have been without good cause and the claimant is subject to disqualification under Section 58(a)(4) of the Act [now section 1257(b) of the code] for the maximum period provided in Section 58(b) [now section 1260 of the code].

The claimant having been held unavailable for work under Section 57(c) of the Act [now section 1253(c) of the code], she cannot meet the requirements of Section 58(b) [now section 1260 of the code] so as to satisfy the disqualification under Section 58(a)(4) [now section 1257(b)] until such time as she is again available for work within the meaning of Section 57(c) of the Act [now section 1253(c) of the code].

DECISION

The decision of the Referee is modified. The claimant is held to have failed to apply for suitable employment without good cause on August 30, 1950, and to be disqualified for benefits under Section 58(a)(4) of the Act [now section 1257(b) of the code] for a five week period commencing with the week following August 30, 1950, in which she first makes a valid registration for work and for the four next following weeks in which she makes a valid report at a public employment office. The claimant is held to be ineligible for benefits under Section 57(c) of the Act [now section 1253(c) of the code] during the period involved herein.

Sacramento, California, March 8, 1951.

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. 5718 is hereby designated as Precedent Decision No. P-B-316.

Sacramento, California, May 11, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSGHGI

HARRY K. GRAFE

RICHARD H. MARRIOTT