

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 6120 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

IDUMEA MILLER
(Claimant)

PRECEDENT
BENEFIT DECISION
No. P-B-317

FORMERLY BENEFIT DECISION No. 6120
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The above-named claimant appealed from the decision of a Referee (SF-32763) which held the claimant subject to disqualification under the provisions 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 as a maid on a full-time basis in a Long Beach hotel for six months ending July 6, 1953, when she left her work because of illness.

Effective July 8, 1953, the claimant filed a claim for unemployment compensation disability benefits. On October 1, 1953, the claimant registered for work and filed a claim for unemployment compensation benefits in the Santa Rosa Office of the Department of Employment. On November 2, 1953, the Department issued a determination which held the claimant subject to disqualification under Section 58(a)(4) of the Act [now section 1257(b) of the code] for a five-week period commencing October 29, 1953.

This determination was predicated on a finding that the claimant had refused an offer of work because it was part-time employment. The claimant appealed to a Referee who affirmed the determination of the Department, and based his decision on a finding that the claimant had refused an offer of work because she did not desire permanent employment.

On October 26, 1953, the claimant accepted a referral from the employment service in Santa Rosa to work in a bakery as a salesclerk at prevailing wages, the hours contemplated by the employment being four and a half hours a day, six days a week. The claimant called on the employer and was offered the position provided she would promise to remain on the job permanently. Upon ascertaining that the work would always be on a part-time basis, the claimant refused to give the employer the requested promise, and she was not hired. She testified that she took this action because she needed full-time work and intended to leave as soon as full-time work became available elsewhere.

REASON FOR DECISION

On October 26, 1953, Section 58(a) of the Unemployment Insurance Act [now section 1257(b) of the code] provided in part as follows:

"An individual shall be disqualified for benefits if:"

* * *

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

Section 13(a) of the Act [now sections 1258-1259 of the code] provided in pertinent part:

" 'Suitable employment' means work in the individual's usual occupation or for which he is reasonably fitted, regardless of whether or not it is subject to this act."

Before a disqualification under Section 58(a)(4) of the Act [now section 1257(b) of the code] may be imposed for a refusal to accept an offer of employment, it must appear that the employment in question was suitable for the claimant, that the claimant refused to accept it, and that such refusal was without good cause (Benefit Decision No. 6075). In the instant case the work in question was work for which the claimant was reasonably fitted, and paid prevailing wages. Since part-time employment in itself is not necessarily unsuitable for an individual (Benefit Decision No. 5714), the work for which the claimant applied on October 26, 1953, was suitable. The record indicates that the claimant by declining to give the employer the requested promise, refused an offer of work. Therefore, the precise issue before us is whether such refusal was without good cause.

The evidence of record does not support the Department's finding that the claimant did not wish to accept part-time employment on October 26, 1953, nor the Referee's finding that the claimant did not wish to accept permanent employment. Rather, the record is clear that the claimant refused the offer of work solely because of the condition attached to the offer, namely, that she remain in part-time employment indefinitely irrespective of the fact that full-time work might become available elsewhere. In our opinion, this condition provided the claimant with good cause for her refusal to accept the offer of work, and we hold that the claimant is not subject to disqualification under Section 58(a)(4) of the Act [now section 1257(b) of the code].

DECISION

The decision of the Referee is reversed. Benefits are payable, provided the claimant is otherwise eligible.

Sacramento, California, March 19, 1954.

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. 6120 is hereby designated as Precedent Decision No. P-B-317.

Sacramento, California, May 11, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSCHGI

HARRY K. GRAFE

RICHARD H. MARRIOTT