BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT DECISION NO. 5798 AS A PRECEDENT DECISION PURSUANT TO SECTION 409 OF THE UNEMPLOYMENT INSURANCE CODE.

In the Matter of:

SARAH GERTLER

PRECEDENT
BENEFIT DECISION
No. P-B-321

FORMERLY
BENEFIT DECISION
No. 5798

The above named claimant on June 21, 1951, appealed from the decision of a Referee (LA-43178) which held that the claimant was not entitled to 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 is a member of Cap Makers Union, Local 22, and has been employed intermittently for a number of years by various employers as a single needle operator in the garment industry at Los Angeles, California, primarily making uniform and sports caps. She last worked on April 17, 1951.

The claimant registered for work and filed an additional claim for benefits in the Los Angeles office of the Department of Employment. The claimant previously established a benefit year beginning June 24, 1950. On May 16, 1951, the Department issued a determination which held that the claimant was ineligible for benefits for five weeks beginning May 4, 1951, under Section 58(a)(4) of the Act [now section 1257(b) of the code].

The Avalon Headwear Company was a party to a collective bargaining agreement with the claimant's union. The claimant had worked on various occasions for this company, the last occasion having been from January 14, 1951, to January 19, 1951, at a wage of $1.15 per hour. On some undisclosed date after January 19, 1951, and prior to May 7, 1951, the collective bargaining agreement had been mutually modified by the parties to provide a two and one-half percent increase in wages to members of the claimant's union working for the company. On or about May 7, 1951, the company requested the union to send the claimant to it for work at the same wage that she had worked for in January, 1951. The union refused to send the claimant to work for the company unless the employer agreed to pay the claimant the wage provided for in the collective bargaining agreement as modified after the claimant had last worked for the company. The company refused to so agree and placed a request for the claimant's services with the Department of Employment. On May 7, 1951, the Department referred the claimant to work with the company. The claimant then telephoned the company and inquired about the rate of pay the company was willing to pay and was advised that her pay would be $1.15 per hour, the same as she had received in January, 1951. The claimant thereupon refused the offer of employment.

REASON FOR DECISION

Section 58(a)(4) of the Act [now section 1257(b) of the code] provides that a claimant shall be disqualified for benefits if, without good cause, he has refused to accept suitable employment when offered to him. In the present case the work offered to the claimant was suitable work and the only issue presented is whether or not the claimant had good cause for refusing it.

The term "good cause" is not defined in the Act or in the regulations of the Director of Employment. "Good cause" is a relative term and must be decided according to the facts and circumstances of each particular case. The mere advancing of an excuse is not sufficient to constitute "good cause"; there must be a substantial and compelling reason for the action taken (Benefit Decision No. 5539).

In Benefit Decision No. 5561 we held that a claimant had good cause for voluntarily leaving work within the meaning of Section 58(a)(1) of the Act [now section 1256 of the code] where the employer refused to pay her wages at the rate specified in a collective bargaining agreement in effect between the employer and a union of which the claimant was a member. We believe that the principle and reasoning in that case are applicable here and that the

company's refusal to agree to pay the claimant the wage set forth in the collective bargaining agreement between the company and the claimant's union constituted good cause for the claimant's refusal of the offered work. Accordingly, we conclude that the claimant is not subject to disqualification for benefits under Section 58(a)(4) of the Act [now section 1257(b) of the code].

DECISION

The decision of the Referee is reversed. The claimant is not subject to disqualification under Section 58(a)(4) of the Act [now section 1257(b) of the code]. Benefits are payable provided the claimant is otherwise eligible.

Sacramento, California, August 31, 1951.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

MICHAEL B. KUNZ, Chairman (Absent)

GLENN V. WALLS

EDWARD CAIN

Pursuant to section 409 of the Unemployment Insurance Code, the above Benefit Decision No. 5798 is hereby designated as Precedent Decision No. P-B-321.

Sacramento, California, May 18, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSCHGI

HARRY K. GRAFE

RICHARD H. MARRIOTT