

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 4768 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

MARILYN I. GRIEP

PRECEDENT
BENEFIT DECISION
No. P-B-323

FORMERLY BENEFIT DECISION No. 4768
--

The above-named claimant on December 10, 1947, appealed from the decision of a Referee (LA-9248) which disqualified her from benefits under Section 58(a)(4) of the Unemployment Insurance Act [now section 1257(b) of the Unemployment Insurance Code] on the ground that she failed to apply for suitable employment without good cause and that she was not available for work as required by Section 57(c) of the Act [now section 1253(c) of the code].

Based on the record before us, our statement of fact, reason for decision, and decision are as follows:

STATEMENT OF FACT

The claimant, seventeen years of age, was last employed for three months on a part-time basis at a wage of fifty-five cents per hour as an usherette in a Pasadena theater, which employment terminated in April, 1947. Prior to this the claimant was employed for approximately two years on a part-time basis during the school year and full-time during summer vacations and holidays as a salesclerk for various retail stores.

On July 3, 1947, the claimant registered as a salesclerk and filed a claim for benefits in the Pasadena office of the Department of Employment. On September 5, 1947, the Department issued a determination which disqualified the claimant from benefits for five weeks beginning August 28, 1947, on the ground that she failed without good cause to apply for suitable employment within the meaning of Section 58(a)(4) of the Unemployment Insurance Act [now section 1257(b) of the code]. The claimant appealed and a Referee affirmed the determination. The Referee further held that the claimant was ineligible for benefits for an indefinite period commencing September 17, 1947, on the ground that she was not available for work as required by Section 57(c) of the Act [now section 1253(c) of the code].

On August 28, 1947, the claimant was offered a referral to employment as a messenger for a Pasadena concern engaged in processing and development work for the armed forces. The hours of work were to be from 8:00 a.m. to 5:00 p.m. No experience was required, and the position paid the prevailing wage of eighty-seven cents per hour. In an interview with a representative of the Department on September 5, 1947, the claimant stated that she refused the referral because "I had done most of my work clerking, and since I was experienced in that type of work I wanted to continue in that field." When this case was heard by a Referee on November 9, 1947, the claimant submitted a letter from her father which indicated that he did not wish for his daughter to engage in factory work because of her age and because the position of messenger would require that she "circulate around in the factory and be subject to factory environment." Claimant had no prospects of work in her desired field when the referral was refused.

A representative of the Employment Service testified that he personally visited the prospective employer's establishment, and stated that the building was very modern in all respects. He also stated that the employer was very selective in the choice of personnel and that he observed no conditions which would render the work unsuitable for the claimant. The prospective employment was located approximately six blocks from the claimant's residence, and public transportation was adequate, at a cost of ten cents one way.

On September 17, 1947, the claimant returned to school for completion of her senior year, and as far as the record discloses, did not thereafter continue to claim benefits.

REASON FOR DECISION

Section 13(a) of the Unemployment Insurance Act [now section 1258 of the code] reads in part as follows:

" 'Suitable employment' means work in the individual's usual occupation or for which he is reasonably fitted"

The evidence in this case discloses that the referral offered to the claimant on August 28, 1947, was work for which she was reasonably fitted and for which no experience was required; that the hourly wage was in excess of her prior earnings and at the prevailing rate; that the prospective employment was within walking distance from the claimant's residence and that public transportation facilities were available if desired; and that the work otherwise met the criteria for suitable employment set forth in Section 13(a) of the Act [now section 1258 of the code], unless, as contended by the claimant, there would have been involved a risk to the claimant's morals had she accepted the employer's offer.

We are not convinced from the record before us that such a result would have followed had the claimant accepted the offered work. The claimant did not investigate the offer of employment in person and had no firsthand knowledge of the type of work or the conditions thereof. On the other hand, the representative of the Department who personally visited the employer's establishment testified that he found no conditions of work to render it unsuitable for the claimant. The claimant's refusal of work on this ground appears to be based merely upon personal preference for other work and would not be good cause for refusing a referral to suitable employment, especially in view of the claimant's lack of work prospects in her personally desired field of employment. Considering all of the circumstances of this case, we conclude that the claimant refused a referral to suitable employment without good cause and therefore is subject to disqualification under Section 58(b) of the Act [now section 1257(b) of the code] for the week in which the refusal occurred and the four following weeks.

Inasmuch as the claimant returned to school on a full-time basis on September 17, 1947, and as far as the record discloses did not claim benefits thereafter, we do not deem it necessary to determine her eligibility under the provisions of Section 57(c) of the Act [now section 1253(c) of the code] in this appeal.

DECISION

The decision of the Referee is modified. The claimant is held to be disqualified for the week in which August 28, 1947, occurred, and the four following weeks.

Sacramento, California, February 26, 1948.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

TOLAND C. McGETTIGAN, Chairman

MICHAEL B. KUNZ

HIRAM W. JOHNSON, 3rd

Pursuant to section 409 of the Unemployment Insurance Code, the above Benefit Decision No. 4768 is hereby designated as Precedent Decision No. P-B-323.

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