

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

In the Matter of:

ISMAEL MEDRANO
(Claimant-Respondent)

DEPARTMENT OF EMPLOYMENT
(Appellant)

PRECEDENT
BENEFIT DECISION
No. P-B-34
Case No. 68-3297

The Department of Employment appealed from Referee's Decision No. LA-18215 which held that the claimant was not disqualified for benefits under section 1257(b) of the Unemployment Insurance Code on the ground that he had good cause for refusing an offer of suitable work. The department submitted written argument. None was received from the claimant.

STATEMENT OF FACTS

The claimant worked for three and one-half years as a tool maker earning about \$3.45 per hour in an aircraft factory in Los Angeles until he was laid off on April 18, 1968 due to lack of work.

On about May 1, 1968 the employer, in accordance with the collective bargaining agreement in effect between the claimant's union and the employer, contacted the claimant by telegram indicating that a job was available to him. The claimant reported to the aircraft factory and was told that a tool maker job at the same hourly rate was available at another location in Downey, California, approximately 15 miles distant from the claimant's home. The claimant has lived in Hawthorne, California near the Los Angeles Airport for four years and did not want to move away from that area. He asked his former employer's representative what recall rights He would have to the employer's facility near the airport and he learned that the collective bargaining agreement provided him with no absolute rights to return to his former location if he accepted the new offer of work. However, he would have a right to request a transfer to the Los Angeles facility in the event an opening for which he was fitted occurred. He would lose no seniority rights by accepting the transfer. If he chose to remain on layoff rather than accept an

offer of work at the other location, he would still maintain his recall rights. He refused that job and maintained his right to be recalled to the Los Angeles facility.

The claimant has an automobile and could have commuted to the prospective location in about an hour.

REASONS FOR DECISION

Section 1257(b) of the Unemployment Insurance Code provides that an individual is disqualified for unemployment benefits if "he, without good cause, refused to accept suitable employment when offered to him, or failed to apply for suitable employment when notified by a public employment office."

Section 1258 of the Unemployment Insurance Code defines "suitable employment" as (1) "work in a person's usual occupation" or (2) work "for which he is reasonably fitted" considering such facts as "the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and prior earnings, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence."

The work which was offered to the claimant was work at which he had experience and which would have paid comparable wages to those which he had received during the latter part of his employment in the Los Angeles establishment of the employer. The work was within reasonable commuting distance from his home in Hawthorne, California. Therefore, it was suitable work.

The issue, then, is whether the claimant had good cause for refusing such employment. The claimant's reason for refusing the employment was the fact that he would lose recall rights to the Los Angeles facility. By accepting the alternative, his seniority would have been continued and he could have later requested a transfer to the Los Angeles facility in the event an opening for which he was fitted occurred. The sole question is, therefore, whether the loss of recall rights to a place of preferred employment is such a substantial loss as to establish good cause for the refusal of an offer of suitable work. We do not think it does. In our opinion, the claimant's refusal of immediate employment and his election to remain unemployed so that he could accept employment at a preferred location which might or might not have occurred in the foreseeable future was without good cause.

Further, section 100 of the Unemployment Insurance Code provides in part that unemployment insurance benefits are provided for persons unemployed through no fault of their own and to reduce involuntary unemployment and the suffering caused thereby to a minimum. In this case, the claimant cannot be said to be involuntarily unemployed since it was his own election and he gained nothing by the election except a possible return to a place of employment of his own choosing.

Under such circumstances, the claimant is subject to disqualification under section 1257(b) of the code.

DECISION

The decision of the referee is reversed. The claimant is disqualified for benefits under section 1257(b) of the code for seven weeks under the provisions of section 1260(b) of the code beginning April 28, 1968.

Sacramento, California, December 17, 1968

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

ROBERT W. SIGG, Chairman

LOWELL NELSON

CLAUDE MINARD

JOHN B. WEISS

DON BLEWETT