

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 6794 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE

In the Matter of:

JOHN M. EGAN (Claimant)

PRECEDENT
BENEFIT DECISION
No. P-B-351

FORMERLY BENEFIT DECISION No. 6794
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The claimant appealed to a referee from two determinations of the Department of Employment which held him ineligible for unemployment compensation benefits for federal employees during the period June 27, 1965 through August 7, 1965. The first determination issued August 18, 1965 held the claimant ineligible for benefits under section 1253(a) of the Unemployment Insurance Code. The second determination issued December 2, 1965 held the claimant ineligible under sections 1253 (b) and (c) of the code. Subsequent to the issuance of Referee's Decisions Nos. OAK-UCFE-11824 (Case No. 66-2518) and OAK-UCFE-12925 (Case No. 66-2519), we set the matters aside for our consideration under section 1336 [now section 413] of the Unemployment Insurance Code.

STATEMENT OF FACTS

The claimant is a teacher. Since 1954, the claimant has worked overseas teaching the children of government employees under the terms of an agreement with an agency of the United States Government. This agreement provides compensation for the school year, plus about one week before the start of classes and about two days after the close of the school year. The agreement also provides that each two years the claimant may receive transportation to the United States for himself and his family. Under certain circumstances, he also may receive transportation during the summer recess if he returns to the United States for summer school study or for employment.

During the school year ended June 9, 1965, the claimant taught at Molesworth, England. Because he was uncertain as to whether or not he wished to continue in the overseas assignment, he decided to return to the United States for the school year 1965 to 1966, during which time he wished to pursue further academic study leading to an administrative credential. He applied for a leave of absence for the purpose of such study. Although the claimant was off the payroll June 11, 1965, he did not receive the approval of his request until about June 20, 1965. He then immediately made arrangements with the appropriate governmental agency for transportation to Oakland, California. Because the claimant has a wife and four children and because he was low on the priority scale, transportation could not be immediately arranged. Although the claimant could have arranged private air transportation immediately he did not feel that it was financially wise to do so. On June 25, 1965, the claimant received word from the Air Force that he would leave August 9, 1965.

While waiting for transportation, the claimant attempted to secure stopgap employment in England. He sought and was willing to accept work as a typist, clerk, warehouseman or any other United States civilian work with a grade of GS-4 or above. Had he found such work at a wage above GS-4, he would have continued in that employment. While in England, the claimant was ineligible to accept employment through the civilian labor exchanges and he also was ineligible for certain types of Air Force employment.

When the claimant learned of the definite day set for travel, he immediately wrote to the Oakland Claim Office of the Department of Employment stating that he wished to register for work. The Oakland office replied under the date of July 1, 1965, informing the claimant that he must register in person. Upon his arrival in the United States, he then reported at the Oakland office on August 11, 1965, at which time he registered in person.

REASONS FOR DECISION

Title XV of the Social Security Act provides for unemployment benefits for federal employees, and further provides that eligibility for such benefits shall be determined in accordance with the unemployment insurance law of the agent state, in this case, California.

Subdivisions (a) and (b) of section 1253 of the California Unemployment Insurance Code provide that an unemployed individual is eligible to receive unemployment compensation benefits with respect to any week only

if the director finds that a claim for benefits with respect to that week has been made in accordance with authorized regulations, and that he has registered for work and thereafter continued to report at a public employment office or such other place as the director may approve.

Section 1326-2 of Title 22 of the California Administrative Code provides in part:

"If an applicant is unable to present himself in person at an employment office . . . because of the lack or failure of transportation facilities on which he might have reasonably relied, or because of such other conditions as the department determines constitute a good cause for his failure to appear in person, the applicant may send a written notice by United States mail, postage thereon prepaid, properly addressed to the nearest employment office, setting forth his correct residence address and stating that he desires to register for work. The postmarked date appearing on the envelope containing such notice shall be the date of registration."

Section 1326-10 of Title 22 of the California Administrative Code provides in part:

"An individual unable to report in person at an employment office, or before one of the agents of said office, because of the lack of or failure of transportation facilities or for other reason sufficient to constitute good cause for such inability to report in person, may file claims by mail with the employment office serving the area in which the claimant resides."

The foregoing are some of the unemployment insurance requirements in this state which apply to residents of the state who file claims in California.

Knowing that there would be some residents of this state who might leave this state and desire to file claims outside of the state, the legislature enacted section 451 of the code. That section provides:

"451. The administration of this division and of other state and federal unemployment compensation and public employment service laws will be promoted by cooperation between this State and such other states and appropriate federal agencies in exchanging services, and making available facilities and information. The director may make investigations, secure and transmit information, make available services and facilities and exercise the other powers provided with respect to the administration of this division which he finds necessary or appropriate to facilitate the administration of any state or federal unemployment compensation or public employment service law, and may accept and utilize information, services and facilities made available to this State by an agency charged with the administration of any such other state or federal law."

Under the authority of section 451 of the code, the State of California has entered into an interstate agreement whereby California claimants can report and file their claims against California in other states and seek work through those other state offices.

The Director of Employment has adopted regulations (see sections 455-1 through 455-8 of Title 22, California Administrative Code) to govern the department in its administrative cooperation with other states adopting similar regulations for the payment of benefits to interstate claimants.

Section 455-5(b) of those regulations provides:

"(b) Claims shall be filed in accordance with agent state regulations for intrastate claims in local employment offices, or at an itinerant point or by mail."

Section 455-8 extends the provisions of section 455-1 through 455-7 of the regulations to claims taken in and for Canada. However, there is no provision extending those sections to claims taken in or for England.

Accordingly, the privileges extended to interstate claimants, including that of filing by mail, have not been given to claimants in England. Therefore, the claimant was not properly registered with the department until he reported to the Oakland office in person on August 11, 1965, and he is not eligible

for benefits under sections 1253(a) and (b) of the code. This being the case, there is no need to decide the claimant's availability for work under section 1253(c) of the code.

DECISION

The determination of the department issued August 18, 1965 is affirmed. The determination of December 2, 1965 is set aside. Benefits are denied for the period June 27, 1965 through August 7, 1965.

Sacramento, California, October 14, 1966.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

GERALD F. MAHER, Chairman

LOWELL NELSON

NORMAN J. GATZERT

Pursuant to section 409 of the Unemployment Insurance Code, the above Benefit Decision No. 6794 is hereby designated as Precedent Decision No. P-B-351.

Sacramento, California, May 24, 1977.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

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