

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

In the Matter of:

WAYNE JONES
(Claimant-Appellant)

PRECEDENT
BENEFIT DECISION
No. P-B-37
Case No. 68-2599

BLACKBURN'S RICHFIELD SERVICE
(Employer-Respondent)

The claimant appealed from Referee's Decision No. S-18948 which disqualified him for unemployment benefits under the provisions of section 1256 of the Unemployment Insurance Code and which relieved the employer's reserve account of benefit charges under section 1032 of the code on the ground that the claimant voluntarily left his most recent work without good cause.

STATEMENT OF FACTS

The claimant was last employed by the above identified employer as a service station attendant for approximately 14 months. The employer was dissatisfied with the claimant's work because he consistently made errors in computing charges when he was presented with a credit card in payment for purchases. For this reason the employer, on February 15, 1968, notified the claimant that his employment would terminate on February 29, 1968.

The claimant continued on in employment after February 15 and last worked on February 26, 1968, when he informed his employer that he would not return to work because it was necessary for him to attend to certain personal business matters preliminary to moving to Arkansas.

REASONS FOR DECISION

Section 1256 of the California Unemployment Insurance Code provides for the disqualification of a claimant, and sections 1030 and 1032 of the code provide that an employer's reserve account may be relieved of benefit charges if it is found that the claimant was discharged for misconduct connected with

his most recent work or voluntarily left his most recent work without good cause.

In applying the provisions of section 1256 of the Unemployment Insurance Code it must first be ascertained who the moving party was in the termination of the employment. If the claimant left employment while continuing work was available, then the claimant is the moving party in the termination of the employment. On the other hand if the employer refuses to permit an individual to continue working although the individual is ready, willing, and able to continue work, then the employer is the moving party in the termination of employment.

The facts in this case show that on February 15, 1968 the employer informed the claimant that his services were no longer needed, but additionally told the claimant that he could continue working until February 29, 1968. At this point the employer was the moving party to the termination of the employment. However, on February 26, 1968 the claimant informed the employer that he would no longer perform services for the employer and was leaving work on that date. It does not appear from the record that the claimant's wages were continued by the employer, and we may assume that he was not paid beyond the last day he worked. Thus, the claimant at the time of the termination of employment became the moving party and voluntarily left his work. We must therefore decide if his reasons for leaving work constitute good cause for so doing.

As we pointed out in Appeals Board Decision No. P-B-27 good cause for the voluntary leaving of work exists only when the facts disclose a real, substantial, and compelling reason of such nature as would cause a reasonable person genuinely desirous of retaining employment to take similar action.

Insofar as the record shows, the claimant left his work when he did in order to attend to his personal business matters preliminary to moving to Arkansas. There was no showing that these matters were of such a nature as to require the claimant to leave employment in order to attend to them. Insofar as the record shows, the claimant could have attended to them and still remained on in employment until February 29. The employer perhaps would have given him sufficient time off during his work shifts to take care of his personal business had he so requested. We believe the facts in this case show that the claimant's reasons for leaving employment were not of such a compelling nature as to constitute good cause within the meaning of section 1256 of the code.

DECISION

The decision of the referee is affirmed. The claimant is subject to disqualification under section 1256 of the code and the employer's reserve account is relieved of charges under section 1032 of the code.

Sacramento, California, January 28, 1969

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

ROBERT W. SIGG, Chairman

LOWELL NELSON

CLAUDE MINARD

JOHN B. WEISS

DON BLEWETT