

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

In the Matter of:

JOYCE M. POWELL
(Claimant-Appellant)

PRECEDENT
BENEFIT DECISION
No. P-B-39
Case No. 69-391

RICHARD N. BEVERIDGE
(Employer-Respondent)

The claimant appealed from Referee's Decision No. F-4684 which held that the claimant was disqualified for benefits under section 1256 of the Unemployment Insurance Code and that the employer's reserve account was relieved of charges under section 1032 of the code.

STATEMENT OF FACTS

The claimant worked for the employer for seven months as a bookkeeper for \$425 per month. This employment was terminated on October 31, 1968.

On or about October 24, 1968 the claimant notified her employer of her intentions to leave her job on November 15, 1968 in order to move to Fresno. Because the first part of the month was usually a slow period for the employer, the employer told the claimant that she could work only until October 31. At the hearing before the referee the employer argued that the claimant should be considered the moving party in bringing about the unemployment relationship. There is no company rule requiring three weeks' advance notice of an intention to resign. The claimant's work was entirely satisfactory.

The claimant's job was a permanent one. Even though there were times when her services were not needed, she was kept on throughout the year so that the employer would have her available during the busy periods

which generally occurred during the latter half of each month and during the income tax return season.

When the employer told the claimant that she could work only until October 31, the claimant expressed her wish to work until November 15 because she was in financial need. The claimant was not paid any wages for the period of November 1 through November 15, 1968.

REASONS FOR DECISION

Under the facts of this case, it is our opinion that the claimant did not voluntarily leave her most recent work within the meaning of section 1256 of the code, but, on the other hand, was discharged by her employer. Since the discharge was not for reasons constituting misconduct connected with her most recent work within the meaning of section 1256 of the code, there is no basis for assessing a disqualification under that section.

The referee based his decision upon our recent Appeals Board Decision No. P-B-27 in which we held that the claimant voluntarily left her most recent work even though the employer severed the relationship prior to the claimant's effective date of resignation. Our views as expressed in that decision are consistent with our holding herein because the facts of that case differ considerably from those under consideration here. In Appeals Board Decision No. P-B-27 the claimant, on December 21, notified her employer that she intended to leave her job at the end of the month, but was not permitted to work past December 26. However, although the claimant stopped working prior to the effective date of her resignation, the employer continued her wages through the effective date of her resignation. We reasoned that the claimant in effect was paid wages for not working and suffered no loss by the action of the employer in accelerating the last day of work.

In the instant case the claimant was not permitted to work to the effective date of her resignation and the employer did not pay the claimant her wages through that date. The claimant did suffer a loss by the action of the employer in accelerating the last day of work.

DECISION

The decision of the referee is reversed. The claimant is not disqualified for benefits under section 1256 of the code. The employer's reserve account is not relieved of charges under section 1032 of the code.

Sacramento, California, March 4, 1969.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

ROBERT W. SIGG, Chairman

LOWELL NELSON

CLAUDE MINARD

JOHN B. WEISS

DON BLEWETT