BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

In the Matter of:

JON A. FRENCH
(Claimant)

J. C. PENNEY
(Employer)

PRECEDENT
BENEFIT DECISION
No. P-B-427
Case No. 81-7819

Office of Appeals No. VN-23323

The claimant appealed from the decision of the administrative law judge which held that he was disqualified for benefits under section 1256 of the Unemployment Insurance Code and that the employer's reserve account was relieved of benefit charges under section 1032.

STATEMENT OF FACTS

The claimant was hired by the above-named employer on December 9, 1963, at age 25. His employment terminated on April 30, 1981. He was then a buyer in the employer's facility in Granada Hills, California, earning approximately $32,000 per year.

On April 30, 1981 the employer permanently closed the facility where the claimant worked. The only alternative employment offered to the claimant was a transfer to one of its stores in Cleveland, Ohio, approximately 2,500 miles away. The new position was that of operations manager which, in both status and salary, would have been comparable to the California employment.

Had the claimant accepted the transfer, the employer would have paid all normal moving expenses. Additionally, if he were unable to sell his home, the employer would have offered to purchase it for a figure equivalent to the average of appraisals made by three real estate brokers.

The claimant discussed the transfer offer with his wife, as well as with his son and daughter who were high school students. All four agreed that they did not wish to move to Cleveland.

According to the claimant, the family would not have objected to relocating to another part of California, or even to one of the other western states. He testified that they are committed to the western lifestyle and could not readily adjust to such a different environment as Cleveland.

At the time of hire in 1963, the claimant stated on the employment application, in response to printed questions, that he was willing to work anywhere in the United States. The application form did not specify if a one-time relocation in order to be hired was intended, or whether it meant that the claimant was agreeing to relocate from time to time as long as he was employed. The employer witness testified that willingness to relocate was considered an ongoing part of the contract of hire. The claimant argues that he was fully amenable to relocating in the earlier phases of his employment but does not believe that at age 43, with a wife and two teenage children, he should be subject to the same obligations as when hired at the age of 25.

REASONS FOR DECISION

Section 1256 of the California Unemployment Insurance Code provides that an individual is disqualified for benefits, and sections 1030 and 1032 of the code provide that the employer's reserve account may be relieved of benefit charges, if the claimant left his most recent work voluntarily without good cause.

This Board held in Appeals Board Decision No. P-B-27 that there is good cause for the voluntary leaving of work where 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.

The question to be resolved in this case is whether under the original agreement of hire the claimant had a continuing obligation to transfer to other areas, even ones at great distances, in order to preserve his employment. The employer contends that he did.

The claimant argues that the willingness to relocate he expressed on a 1963 employment application should not bind him permanently and irrevocably to accept transfers at the employer's option regardless of changed circumstances. We agree.

There have been no precedent decisions by this Board up to the present relating to the specific question of job transfers of such great distance that the claimant must relocate. We have, however, considered situations where the transfer would create problems in commuting to work.

In Appeals Board Decision No. P-B-232 there was a reduction in force at the claimant's office, which was within walking distance of her home. The employer offered to transfer her to a similar job, at the same pay, at an office 24 miles from her home. She would have had to use public transportation, spending about three hours a day riding buses, at substantial expense. The claimant was divorced and had a child three years of age. Her mother had cared for the child while the claimant worked, but could not have done so if the claimant had accepted the transfer. The claimant would have had to employ a baby sitter at additional expense. She therefore declined transfer. This Board held the leaving was with good cause.

A transfer that requires relocating has a much greater impact than one that merely makes commuting more difficult. It affects not only the claimant but, as in the case at hand, an entire family, which would be uprooted and required to adjust to a new environment.

The claimant was not unreasonable. He was willing to accept a transfer to any part of California, or even to another western state. But he and his family felt that it would be asking too much of them to move 2,500 miles to a very different environment. In our judgment these reasons were serious and compelling, not trivial or frivolous.

If, as was held in Appeals Board Decision No. P-B-232, a worker who declines a job transfer that would cause difficult commuting quits with good cause, it would seem a logical extension of that rationale to find good cause in the case of the present claimant. Surely there must be a rule of reason with respect to what a worker is required to do in order to remain employed. In declining the transfer to Cleveland, the claimant acted as a reasonable person.

We therefore hold that the claimant voluntarily left his employment with good cause under section 1256 of the Unemployment Insurance Code.

This decision does not mean that every refusal of a long-distance transfer will constitute quitting with good cause. The factual circumstances of each case must be carefully considered and evaluated. Had the facts in the instant case been such that the transfer request occurred at an earlier time in the claimant's career, a different decision might well have been reached.

DECISION

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

Sacramento, California, August 31, 1982.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

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