

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

In the Matter of:

ALVIN WILLIAMS
(Claimant-Appellant)

PRECEDENT
BENEFIT DECISION
No. P-B-45
Case No. 69-1578

SUTRO & COMPANY
(Employer-Respondent)

The claimant appealed from Referee's Decision No. SF-11445 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 for approximately one and one-half years as a day porter. He generally worked Monday through Friday from 6 a.m. to 2:30 p.m. However, he was scheduled to work on Saturday, February 1, and Sunday, February 2, 1969, in addition to his regular shift.

The claimant reported for work on Saturday, February 1, but did not finish his shift because he did not feel well. Later on during the day of February 1 the claimant and some friends were arrested for gambling and as a result the claimant was incarcerated.

He was released from custody on Tuesday, February 4, 1969, telephoned his employer at this time, and explained the reason for his absences. He also explained that he would not be able to report for work on February 5 because he had to appear in court to answer to the charges which

resulted in his incarceration, when the claimant appeared in court on February 5, he entered a plea of guilty to the charges placed against him, was fined and released. He reported for work on February 6, 1969 and was discharged because of unreported absences.

REASONS FOR DECISION

Section 1256 of the 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.

Section 1256.1 of the code which was added to the Statute by the 1968 Session of the State Legislature provides in pertinent part as follows:

"1256.1 (a) If the employment of an individual is terminated due to his absence from work for a period in excess of 24 hours because of his incarceration and he is incarcerated and is convicted of the offense for which he was incarcerated or of any lesser included offense, he shall be deemed to have left his work voluntarily without good cause for the purposes of section 1256. . . ."

In this case the claimant was absent in excess of three days because of his incarceration and he was convicted of the offense for which he was incarcerated. He therefore falls squarely within the provisions of section 1256.1 of the Unemployment Insurance Code, and it must be concluded that he voluntarily left his work without good cause for the purposes of section 1256 of the code. The same conclusion applies in regard to the issue under code sections 1030.1 and 1032.

DECISION

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

Sacramento, California, June 3, 1969.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

ROBERT W. SIGG, Chairman

LOWELL NELSON

CLAUDE MINARD

JOHN B. WEISS

DON BLEWETT