BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

In the Matter of:

JAMES T. HORNE
(Claimant)

HAWTHORNE MAZDA
(Employer)

PRECEDENT
BENEFIT DECISION
No. P-B-458
Case No. 87-4727

Office of Appeals No. ING-12652

The employer appealed from the decision of the administrative law judge which held the claimant was not disqualified for benefits under section 1256 of the Unemployment Insurance Code and the employer's reserve account was not relieved of benefit charges.

STATEMENT OF FACTS

The claimant worked for the employer as the used car manager for eight months, earning approximately $4,000 per month. His employment ended late on Friday afternoon, October 24, 1986, under the following circumstances.

Business had been slow at the employer's dealership, and the subject of the claimant's job performance had come up once before between the parties, in a meeting on September 19. Matters had not improved, and another meeting was held in the main office on the final Friday afternoon. The dealership's president, the general manager, and the claimant were all present.

The parties reviewed the situation at the second meeting, and the claimant remarked that if he were in charge he would blame the used car manager, referring to himself. The president felt that the claimant had not been working to capacity. The claimant specifically recalled at the hearing that the president told him they "should part company." While the employer at the hearing did not recollect using those words, the employer did recall that the claimant announced he was leaving, soon after their discussion about how the employer should be blaming the used car manager.

The claimant left the office, went to his own work area, and cleaned out his desk. The employer interpreted the conversation and events as a resignation by the claimant. The claimant interpreted them as a discharge by the employer.

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 the most recent work voluntarily without good cause or was discharged for misconduct connected with the most recent work.

In Appeals Board Decision No. P-B-37, the Appeals Board held that in determining whether there has been a voluntary leaving or discharge under code section 1256, the moving party in the termination must first be determined. If the claimant left employment while continued work was available, then the claimant was the moving party. If the employer refused to permit an individual to continue working who was ready, willing and able to do so, then the employer was the moving party.

In Gibson v. California Unemployment Insurance Appeals Board (1973), 9 Cal.3d 494, 108 Cal.Rptr 1, the California Supreme Court held that the provisions of the Unemployment Insurance Code must be liberally construed to further the legislative objective of reducing the hardship of unemployment.

We are struck immediately by the reasonableness of the parties' conflicting interpretations of the events. The employer observed the claimant's self-effacing evaluation of his own job performance and his willingness to leave with a minimum of discussion. The claimant knew that his role in the insufficient development of the business had prompted another meeting a month earlier, and it could fairly be said that the calling of a second meeting on the same subject on a Friday at the end of the day had an ominous ring to it. In other words, the facts bear the interpretation that the employer reasonably and sincerely believed that the claimant had resigned, while the claimant just as strongly felt that he had been discharged.

The Board has held before, in Appeals Board Decision No. P-B-211, that a work cessation involving neither the elements of discharge nor resignation is qualifying for unemployment insurance purposes under section 1256 of the code. Mindful of the remedial purpose of the code, we conclude that the same analysis is useful here. The record does not sufficiently reflect that either the claimant or the employer was the moving party. We hold that where the claimant and the employer are mutually but reasonably mistaken about the other party's understanding of the separation, the claimant is not subject to disqualification under section 1256 of the code.

We intend to exclude from this analysis any situation where either party has an unreasonable belief in the other's understanding, or where the parties engage in collusive behavior in order to achieve an artificial result. There is no hint of unreasonableness or collusion in the matter before us.

DECISION

The decision of the administrative law judge is affirmed. The claimant is not disqualified from receiving benefits under section 1256 of the code, and the employer's account is subject to charges.

Sacramento, California, September 10, 1987.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

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