

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

In the Matter of:

APPLICE Q. OWENS
(Claimant)

PRECEDENT
BENEFIT DECISION
No. P-B-63
Case No. 69-4206

CROCKER-CITIZENS NATIONAL BANK
(Employer)

The employer appealed from Referee's Decision No. OAK-12157 which held that the claimant was entitled to benefits under the Unemployment Insurance Code and that the employer's account is not relieved of charges under section 1032 of the code.

STATEMENT OF FACTS

The employer, as a member of the National Association of Businessmen, was requested to assist in making the hard core unemployed a part of the work force. As a means of doing this it agreed to participate in the Work Experience Program.

The Work Experience Program contemplates that eligible individuals will be given part-time work while attending school. In addition to receiving pay for their work the individuals selected receive school credit. This is basically a social program.

The employer, in furtherance of its desire to participate in the Work Experience Program entered into the following agreement with the Richmond Unified School District:

"TRAINING AGREEMENT
Richmond Unified School District
Work Experience Education Program

"The Major purpose of this program is to provide valuable work experience education for students. This agreement is made

to show responsibilities of the participants; student (or trainee), parent, school, and employer.

- "1. The student enters this program to learn as much as the employer can provide in the nature of job information, skills, and attitudes.
- "2. The employer is asked to inform regular employees of their important role in assisting in the training of the trainee and of the school's request for their cooperation.
- "3. The trainee will keep regular attendance both at school and on the job. He cannot work on any school day that he fails to attend school. Exceptions are permissible only with the mutual consent of the employer and teacher-coordinator (see No. 10).
- "4. A trainee who quits school loses this job at once. Any job change must be arranged in advance by the employer and the coordinator.
- "5. Pay and hours are to be determined by the employer. The minimum wage as required by the State Industrial Relations Department applies. Since the trainee starts to work during the legal school day, the school reserves the right to approve the working hours. A work permit is required for all trainee under 18 years of age.
- "6. The employer expects the trainee to be honest, punctual, cooperative, courteous, and willing to learn. The employer may discharge the trainee for just cause; however, the coordinator requests consultation with the employer prior to discharge.
- "7. The employer is urged to keep the trainee on the job for at least the minimum number of hours agreed upon. In general, trainees should average 15 hours of work per week, including Saturdays and on school holidays. This average is spread over the full school semester.
- "8. The trainee must be 16 at the time he enters this program.
- "9. Parents or guardians are responsible for the conduct of their children in this program.
- "10. The school provides a coordinator to supervise the student on the job. He will make periodic visits to observe the trainee and

consult with employer and trainee. Evaluation of job performance will be a joint effort of the employer and the coordinator. School credit is granted for successful job performance."

The claimant was hired as a trainee student clerk by the employer on September 4, 1968. She worked under the terms of the training agreement until June 9, 1969. She was terminated on that date because she was scheduled to graduate from high school on June 11, 1969 and the employer did not have full-time work available for her. The claimant was willing to continue work and felt that the work experience had been valuable to her.

The claimant had previously worked for the same employer as a summer employee under a similar program sponsored by the National Association of Businessmen from June 17, 1968 until September 3, 1968.

On appeal to us the employer contends that it should not be penalized for participating with the schools in a worthwhile public service program and its reserve account should be relieved of benefit charges.

REASONS FOR DECISION

Section 1256 of the Unemployment Insurance Code provides that an individual is disqualified for benefits, if "he left his most recent work voluntarily without good cause" or if "he has been discharged for misconduct connected with his most recent work."

The claimant did not voluntarily leave her work. She wished to continue work but the employer did not have continued work available for her. Also she was not discharged for any misconduct. Her work performance and conduct were apparently satisfactory. She was simply laid off for lack of work. Historically, unemployment insurance benefits have been granted in such cases.

The issue concerning the employer's reserve account causes us more concern.

Section 1030(a) of the code provides any employer who is entitled under section 1327 to receive notice of the filing of a new or additional claim

may, within ten days after mailing of such notice, submit to the Department any facts within its possession disclosing whether the claimant left such employer's employ voluntarily and without good cause or was discharged from such employment for misconduct connected with his work, or whether the claimant was a student employed on a temporary basis and whose employment began within, and ended with his leaving to return to school at the close of, his vacation period. The period during which the employer may submit such facts may be extended by the director for good cause.

Section 1032 of the code provides:

"1032. If it is ruled under Section 1030 or 1328 that the claimant left the employer's employ voluntarily and without good cause or was discharged by reason of misconduct connected with his work, or that he was a student employed on a temporary basis and whose employment began within, and ended with his leaving to return to school at the close of, his vacation period, benefits paid to the claimant subsequent to the termination of employment due to such voluntary leaving or discharge, or due to the termination of the temporary employment of a student whose employment began within, and ended with his leaving to return to school at the close of, his vacation period, which are based upon wages earned from such employer prior to the date of such termination of employment, shall not be charged to the account of such employer unless he failed to furnish the information specified in section 1030 within the time limit prescribed in that section."

As we have previously stated the claimant did not voluntarily leave her work nor was she discharged for misconduct. Therefore, the employer's reserve account cannot be relieved on either of those grounds. The only other basis for relief would be if the claimant was a student hired only for the summer and she left to return to school. It would appear that one period of employment falls under that exemption. The claimant's work from June 17, 1968 to September 3, 1968 was summer student work and the employer's reserve account should be relieved of charges for benefit payments which are based upon wages paid during that period of time.

The claimant's work as a student trainee from September 4, 1968 to June 9, 1969 is not covered by any statutory exemption and the employer's reserve account is subject to charges for benefits based upon those wages.

We understand and appreciate the employer's position and believe that its reserve account should be relieved of benefit charges. Unfortunately we are powerless to grant such relief. It is our responsibility to interpret and apply the law. We have no authority to change it. Only the legislature can perform that function.

DECISION

The decision of the referee is modified. The claimant is not disqualified for benefits under section 1256 of the code. The employer's reserve account is relieved of charges for benefits based upon wages paid during the period June 17, 1968 to September 3, 1968. The employer's reserve account is subject to charges for benefits which are based upon wages paid during the period September 4, 1968 to June 9, 1969.

Sacramento, California, December 30, 1969

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

ROBERT W. SIGG, Chairman

LOWELL NELSON

CLAUDE MINARD

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