

BEFORE THE  
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

In the Matter of the  
Reserve Account of:

PISTON SUPPLY COMPANY  
(Employer)

Claimant: Lawrence L. Palmer

PRECEDENT  
RULING DECISION  
No. P-R-136  
Case No. R-71-126

The employer appealed from Referee's Decision No. LB-R-7155 which held the claimant had left work voluntarily with good cause and that the employer's reserve account was not relieved of charges under section 1032 of the Unemployment Insurance Code.

STATEMENT OF FACTS

The claimant worked for the above employer from November 1968 through July 7, 1970. At the time of termination he was receiving \$4 per hour for a basic 40-hour week.

On July 1, 1970 the claimant applied for work with a new employer. On July 7, 1970 the claimant was notified he was hired with a starting date of July 13, 1970. The wage to be received from the new job was \$200 per week for a 40-hour week. The new employer was also situated closer to the claimant's place of residence. The claimant did not thereafter return to work with the above employer.

It is the employer's contention that any potential good cause which may be found with respect to the advantages of the new job over the old are negated by the claimant's failure to work up until the commencement date of the new employment.

## REASONS FOR DECISION

Section 1032 of the Unemployment Insurance Code provides that an employer's reserve account may be relieved of charges if it is ruled under section 1030 of the code that a claimant left work voluntarily without good cause.

Good cause for leaving work voluntarily is an intangible concept which must be determined in light of the efficient or moving cause of separation in issue. In general, however, 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. (Appeals Board Decision No. P-B-27)

An employee's only asset in the modern labor market is the services he may render in exchange for remuneration. Accordingly, an employee is entitled, and may be expected, to seek out that work which will provide the greatest income with the least amount of inconvenience. In comparing the comparative advantages of two employments, there is no single factor upon which one may rely. All of the factors which influenced the claimant's decision to leave one job to accept other work must be considered together as a whole in order to decide if good cause existed. For example, consideration should be given, among other things, to the pay, location, opportunities for advancement, skills required, seniority rights, permanency and working conditions of the two jobs. (Appeals Board Decision No. P-R-91)

In deciding whether the claimant herein left work with good cause under the code, we limit our consideration to the facts established by the record. As has been pointed out in Appeals Board Decision No. P-R-85, the burden of proving entitlement to relief from charges for benefits paid to a particular claimant rests with the employer. Only where there has been established a prima facie case does the burden of going forward with the evidence shift to the Department. With respect to the instant case, the employer has not produced sufficient evidence to establish a prima facie case of a leaving without good cause.

Here the claimant had been working for a substantial period of time; 40 hours per week for a gross wage of \$160. He became dissatisfied with the conditions of such work and sought out other work. When he obtained work to his satisfaction, he informed the employer of his pending termination and

left work at the close of business July 7. The new work paid a gross income of \$40 per week in excess of that previously received and was situated closer to his place of residence. The work was considered to be permanent and in all respects was a more advantageous employment. Under these circumstances we find that the claimant left his work with the above employer with good cause under section 1030 of the code.

We do not agree with the employer's contention that any good cause in this case is negated by the claimant's failure to work up until the commencement date of the new employment. We consider it understandable that the claimant herein may have left a week prior to commencing the new employment. A distinction may readily be drawn between a claimant who leaves work merely to enjoy a vacation and thereafter seek new work and a claimant who leaves work solely because he has obtained new employment, even though there may be a brief lapse for vacation or other purposes between the two periods of employment. In embarking upon a new tenure of employment, a brief respite from work would be not only desirable but advantageous to both a claimant and the new employer. The claimant might need time to move nearer the new work or conduct personal business which would otherwise interfere with the new employment. As a new employee he would undoubtedly have to wait for a vacation until earned on the new job.

Although the employer herein has not presented evidence which would negate the claimant's good cause, we can envisage a number of circumstances where such would be the case. In this respect consideration should be given to the period of time on the old job since the claimant last took a vacation, the length of that last previous vacation and the amount of vacation taken before commencing the new job.

DECISION

The decision of the referee is affirmed. The employer's reserve account is not relieved of charges.

Sacramento, California, April 4, 1972.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

ROBERT W. SIGG, Chairman

CLAUDE MINARD

JOHN B. WEISS

DON BLEWETT

CARL A. BRITSCHGI