BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER RULING
DECISION NO. 155 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of the
Reserve Account of:

ANACONDA ALUMINUM COMPANY
(Employer-Appellant)

Claimant: James D. Winters

PRECEDENT
RULING DECISION
No. P-R-207

FORMERLY
RULING DECISION
No. 155

The employer appealed from Referee's Decision No. S-R-2952 which held that the employer's reserve account was not relieved of charges under section 1032 of the Unemployment Insurance Code. The employer submitted written argument.

STATEMENT OF FACTS

During the base period of his unemployment insurance claim, the claimant worked as a sales representative from September 28, 1964 until January 26, 1966 for the employer identified above. His final salary was $7,300 per year, and the employer furnished a car for him and his family to use. The employer estimates that the use of the car was worth $1,500 per year.

The employer also provided the claimant with a hospitalization plan, for which the employer paid about $20 per month, and group life insurance coverage at a cost of about $15 per month to the employer. The employer also covered the claimant under a pension plan to which it contributed approximately ten percent of the claimant's base salary.

On January 26, 1966 the claimant notified the employer that he was leaving work to accept employment with one of the employer's competitor's in a comparable postition at a salary of $750 per month. In the new position he was also promised a car allowance of $175 per month. He was to be covered by group insurance of some sort, paid for by the new employer but was not immediately eligible for participation in a pension plan.

The employer-appellant concedes that the claimant received a substantial increase in base pay in the new employment. It contends: (1) that the standard of good cause which should apply in ruling cases is good cause attributable to the employer, rather than the standard which is applied in benefit cases; (2) that in any case, leaving a good job to accept a better one or merely to obtain an increase in wages was not intended to be included within the scope of good cuase by the legislature when it adopted the code; and (3) that so-called "fringe" benefits may not be disregarded in determining whether a claimant has good cause for leaving one job to take another.

REASONS FOR DECISION

Section 1032 of the California Unemployment Insurance Code provides that an employer's reserve account shall be relieved of charges for benefits paid to a claimant if the claimant left that employer's employ voluntarily and without good cause.

In Ruling Decision No. 1, this Board considered the same issue raised by the present appellant's first contention. We examined in detail the legislative history of the provisions of the Unemployment Insurance Act for the relief of an employer's reserve account if a claimant has left his work voluntarily and without good cause. In that case we concluded that the expression "voluntarily and without good cause" in that provision has the same meaning as "voluntarily without good cause" in the comparable benefit disqualification provision (now section 1256 of the code). We pointed out that the legislature had rejected the idea that good cause should be restricted to causes attributable to the employer. We have consistently adhered to that view since the issuance of that decision in 1952.

The courts of this state have similarly recognized that good cause for leaving work includes personal reasons even in ruling cases. It has been explicitly held that "the legislature intended that good cause shall include some causes which are personal" (California-Portland Cement Company v. California Unemployment Insurance Appeals Board (1960), 178 Cal. App. 2d. 263, 3 Cal. Rptr. 37).

Since the issuance of our Ruling Decision No. 1 cited above, the Unemployment Insurance Act has been reenacted into the Unemployment Insurance Code and amended many times. The legislature must have presumed to have been aware of the interpretation which we had given to the phrases "voluntarily without good cause" and "voluntarily and without good cause" as used in the act and in the code. Since it has not chosen to alter that definition or amplify those phrases in any manner during that time, we must conclude that it approves of our interpretation as representing what it intended by those words. It has, in fact, in that period rejected a proposed amendment which would have added the words now proposed by the appellant to be administratively inserted by us (California-Portland Cement Company v. California Unemployment Insurance Appeals Board, cited above; Assembly Bill No. 1412, introduced in 1955).

The employer's first contention must therefore be rejected.

We have described good cause for leaving work in Benefit Decision No. 5686 as a real, substantial and compelling reason of such nature as would cause a reasonable person genuinely desirous of retaining employment to take similar action.

In Ruling Decision No. 5, we held:

> "In determining the issue of good cause in cases involving a leaving of work to accept other employment no definite standards or criteria can be established which may be uniformly applied in each and every case. Consideration must be given, among other things, to the relative remuneration, permanence and working conditions of the respective employments as well as the inducements or assurances, if any, made to the claimant by the prospective employer. . . ."

We held in Ruling Decisions Nos. 17 and 138 that speculative considerations or ones which are only a mere possibility are not to be given significant weight in distinguishing the relative desirability of two jobs, as in the case of a bonus which is not immediately due and therefore may or may not actually materialize at some later date.

The courts of this state have recognized that good cause for leaving work includes personal reasons and wage levels. They have held in particular that "the legislature intended that good cause shall include some causes which are personal" (California-Portland Cement Company v. California Unemployment Insurance Appeals Board, cited above) and that "A substantial reduction in earnings is generally regarded as good cause for leaving employment" (Bunny's Waffle Shop v. California Employment Commission (1944), 24 Cal. 2d 735, 151 P. 2d 224).

The employer's second contention, that change in employment because of a difference in wages is generally without good cause, is just as contrary to the "industrial reality" which the employer demands as to deny the significance of any other factor. We, therefore, cannot agree with the employer's second contention.

We have never said that any particular percentage of wage change is or is not good cause for leaving work, despite the language of the referee's decision. We have mentioned percentages only because they are more significant than absolute numbers of dollars in comparing wages. All our decisions taken together on this point suggest no more about the significance of percentages than that, if all other factors are equal, a ten percent change in wage level is near the boundary between a "substantial" and an insubstantial change in wage level, as meant in the Bunny's Waffle Shop case, cited above.

We have not said that the wage is the only factor to be considered and we have often considered other factors, such as the distance to work (Ruling Decisions Nos. 41 and 73), the relative permanence of the employments (Ruling Decisions Nos. 9, 15, 91, 130 and 133; Benefit Decisions Nos. 5524 and 5590), numbers of hours (Ruling Decisions Nos. 32 and 133), and similar factors (Ruling Decisions Nos. 4, 7, 41, 85, 105 and 120).

In some cases, the respective wages were the only factors adequately covered in the record, or the only significant differences between the jobs under comparison, as in Ruling Decision No. 17 cited by the employer.

The burden of proof or risk of nonpersuasion in this case rests upon the employer-appellant (California Portland Cement Company v. California Unemployment Insurance Appeals Board, cited above). It is true that in a number of cases, including Ruling Decisions Nos. 17 and 138, we have disregarded so-called fringe benefits offered by the former employer. Where the record does not show what fringe benefits are or are not offered by the prospective employer, the employer-appellant has not sustained its burden of proof, since the record does not permit a comparison on this basis.

It is also true, however, that in Ruling Decision No. 138 we held that fringe benefits may not he considered in determining the relative remuneration of two positions generally.

The employer in its written argument points out in this respect:

> "However, even if for some reason fringe benefits do not appear . . . as remuneration, they certainly help constitute either the working conditions of the job or one of the inducements offered by the employer. They are, therefore, of relevant consideration under the test of Ruling Decision No. 5 in determining the presence of good cause. That fringe benefits are offered as inducement by the employer is beyond question to any one with a sense of industrial reality. . . ."
>
> "Hence, in light of the stature and in-importance [sic] of fringe benefits and the absence of any stated reason . . . for their exclusion from consideration, we submit fringe benefits must be weighed in determining good cause."

This argument is well taken. Provided that the record shows the extent of fringe benefits offered in both employments to be compared, and such benefits are currently available, they must be considered along with the rest of the circumstances which realistically affect the relative desirability of the two jobs. To the extent that Ruling Decision No. 138 expresses views contrary to this, it is overruled.

In the present case, however, an evaluation of all the factors indicates that the prospects of the position which the claimant accepted were substantially more desirable than the job which he held. The employer-appellant has not sustained its burden of showing the contrary.

Between the base pay rates only, the new job represented an increase of more than 23%. The car allowance offered was 40% above the comparable benefit from the employer-appellant. The evidence does not show that the various insurance benefits did not conform to a similar pattern.

If we assume for the sake of argument that the insurance features were identical in the two employments, and attribute to them the values suggested by the appellant, the new position is still substantially more desirable than the former one, viewed as a whole. For example, if we give a monthly dollar value to all these items, we get nearly a 25% difference:

	Former Position	New Position
Base Wage	$608	$750
Car	125	175
Insurance	35	35(?)
Total	$768	$960

Even if the new position offered no insurance benefits, which is contrary to the evidence, the difference would still be substantial (20.4%).

If the pension were added in, the result could not be changed, for the new job would still be nearly 17% more valuable, on the same assumptions ($960 per month versus $825).

We must nevertheless note that the difference in pension arrangements, upon which the employer places great stress, may not be given great weight, since it is a speculative benefit of possible but uncertain future value, depending upon many unforeseeable events, such as whether the claimant lives long enough to retire, whether he remains able to work long enough to earn a useful retirement level, whether the employer retains him long enough to retire him, whether the employer and the pension fund will remain solvent and in business until the claimant retires, whether the value of the dollar will remain sufficiently stable for the retirement funds now deposited to be of significant value when the claimant retires, and whether or not the claimant may have become entitled to a better retirement arrangement with his new employer before he is ready to retire.

We must, therefore, conclude that the claimant in the present case left his work with the employer voluntarily but with good cause within the meaning of section 1030 of the code.

DECISION

The referee's decision is affirmed. Under section 1032 of the code the employer's reserve account is not relieved of charges.

Sacramento, California, April 7, 1967.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

GERALD F. MAHER, Chairman

LOWELL NELSON

NORMAN J. GATZERT

Pursuant to section 409 of the Unemployment Insurance Code, the above Ruling Decision No. 155 is hereby designated as Precedent Decision No. P-R-207.

Sacramento, California, February 3, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

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