

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 5517 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

DOUGLAS MAXWELL

PRECEDENT
BENEFIT DECISION
No. P-B-205

FORMERLY BENEFIT DECISION No. 5517
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The above-named claimant on September 27, 1949, appealed from the decision of a Referee (S-11540) which, affirming a determination of the Department of Employment, held the claimant ineligible for benefits under Section 57 (c) of the Unemployment Insurance Act (now section 1253(c) of the Unemployment Insurance Code).

Based on the record before us, our statement of fact, reason for decision, and decision are as follows:

STATEMENT OF FACT

The claimant was last employed as a ship's purser by an American steamship company for a period of six years. This employment terminated on June 6, 1949, when the employer initiated a new policy which involved a substantial reduction of the number of pursers in its employ. The employer informed the claimant at that time that if it should decide to employ additional pursers the claimant would be called back to work.

On June 10, 1949, the claimant registered for work in the public employment office in Nashville, Tennessee, and filed a claim for benefits against California as the liable state. After indicating that he was available for full time work the claimant wrote the following statement on the portion of his claim card designated "Remarks":

"I left my work with American Hawaiian Steamship Company in New York due to lack of work. My job as purser was abolished. I returned to my home in Nashville. The company in New York will call me back as soon as they have an opening. I want to wait a reasonable period of time for them to call me as that is the only kind of work I am experienced in."

In his letter of appeal from the Department's determination the claimant explained that the statement set forth above was not intended as a restriction on acceptable work. On June 15, 1949 the claimant applied to a former employer for clerical work, and subsequently within the month of June, he made a number of other applications for non-maritime employment. On July 1, 1949, following the claimant's placement interview at the Nashville public employment office the interviewing officer entered on the claimant's application card this comment: "Will accept any temporary or permanent employment as general clerk."

Previous to his working for his last employer the claimant had had considerable experience at clerical and general office work. Clerical work exists in Nashville for which there is a prevailing wage somewhat higher than the figure which the claimant stated was the minimum he was willing to accept. The claimant has conducted a search for this type of work on his own behalf.

When the claimant reported to the local employment office on June 24, he was asked to wait for an interview, but as the day was hot and he had already been in the office for one hour and fifteen minutes, he felt that another day would be as good as that day to be interviewed and therefore he left the office without waiting for the interview. The claimant was properly interviewed the following week on July 1, 1949.

REASON FOR DECISION

In holding the claimant unavailable for work the Referee construed the claimant's written statement of June 10, 1949, as a total restriction on availability. In view of the fact that the claimant not only on other occasions stated that he was available for work generally, but also actively sought work outside the maritime field, we believe that the most plausible construction to be given the statement in question is not that it was a restriction on acceptable employment to work for the previous employer, but rather that it was a mere indication of preference for work for the last employer, which is perfectly

understandable in view of the fact that the claimant could command a substantially higher wage as a ship's purser than as a general clerk.

We conclude, then, that the claimant held himself available for work without restrictions from the time he filed his claim, and sought work in an area where employment opportunities existed for work for which he was qualified. We hold, therefore, that the claimant met the availability requirements of Section 57(c) of the Unemployment Insurance Act (now section 1253(c) of the Unemployment Insurance Code).

In Benefit Decision No. 1290-3866, we held that a claimant who declined to wait for a placement interview when so requested by the employment office failed to meet the registration for work requirements of Section 57(b) of the Act (now section 1253(b) of the Unemployment Insurance Code), and remained ineligible for benefits until he was properly interviewed. Similarly, in the instant case we hold that by refusing to wait for his interview on June 24, 1949, the claimant failed to register for work as provided in Section 57(b), and was ineligible for benefits for the week in which the failure to register occurred.

DECISION

The decision of the referee is reversed. Except for the week of June 24, 1949, when the claimant was ineligible within the provisions of section 57(b) of the Act, benefits are allowed provided the claimant is otherwise eligible.

Sacramento, California, January 13, 1950.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

MICHAEL B. KUNZ, Chairman

GLENN V. WALLS

PETER E. MITCHELL

Pursuant to section 409 of the Unemployment Insurance Code, the above Benefit Decision No. 5517 is hereby designated as Precedent Decision No. P-B-205.

Sacramento, California, January 29, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSCHGI

HARRY K. GRAFE

RICHARD H. MARRIOTT