

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 6514 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

ARCHIE LITTLEJOHN
(Claimant-Appellant)

WEYERHAEUSER STEAMSHIP COMPANY
(Employer)

PRECEDENT
BENEFIT DECISION
No. P-B-273

FORMERLY BENEFIT DECISION No. 6514
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STATEMENT OF FACTS

The claimant appealed from the referee's decision which held that the claimant was not entitled to benefits under the California Unemployment Insurance Code and that the employer's account is not chargeable under section 1032 of the code.

On April 8, 1956, the claimant registered for work and filed a claim for benefits in the Portland office of the Oregon state agency against California as the liable state. On April 24, 1956, the department issued a determination holding the claimant to be disqualified for benefits for the period beginning April 8, 1956 through May 12, 1956 under the provisions of section 1256 of the code. A favorable ruling was issued to the employer under the provisions of section 1032 of the code.

The claimant was last employed by this employer as an assistant cook aboard the SS "GEORGE S. LONG" for a period of three months ending March 8, 1956, On March 7, 1956, the SS "GEORGE S. LONG" had completed a voyage and was docked at Longview, Washington, for loading before an extended trip to the East coast. That evening, the claimant went to his home in an apartment building which he owned in Portland, Oregon, fifty miles away. There a friend, who had taken care of the apartment building during the claimant's absence, informed the claimant that a subpoena had been issued for him in connection with a divorce proceeding started by the claimant's wife some time before, the next scheduled hearing having been set for March 28, 1956. The claimant's attorneys had been able to secure one continuance of the proceedings when the claimant was on a trip to Alaska but had informed him that no additional continuances could be granted and if he was not in court his property rights would be seriously jeopardized. The claimant testified at the hearing before the referee that he returned to the ship the next morning, told the captain he had to leave because of domestic troubles, and showed him the papers he had received.

The employer did not appear at the hearing but presented an affidavit by its assistant treasurer who stated that, based upon information furnished by the company's operations manager, the claimant's contention that he had to leave his work because his presence was required for a law suit involving his property was not substantiated in any way by information he had given to the captain of the ship.

At the hearing in Oregon, the referee requested the claimant to furnish substantiation of his contention that he had been required to appear in court. The claimant testified that he was unprepared for the hearing because he had not received the notice of hearing and had been informed just before the hearing, when he had come into the local office on his regular report day, that it had been scheduled. The referee adjourned the hearing to permit the claimant to obtain such documents. At the adjourned hearing that afternoon, the claimant explained that, because of the short notice and because he had recently moved from one apartment to another in his building, he had been unable to find any specific papers in connection with his divorce other than a copy of a mortgage dated April 26, 1956, covering certain real property owned by him. The amount of the mortgage was \$404.50 and the claimant stated that this was for attorney's fees for his divorce action. With his appeal to the Appeals Board, the claimant submitted documentary evidence in the form of a divorce decree which recited that the matter had come on regularly for trial

on the 20th day of April, 1956. This document was admitted into evidence by the Appeals Board. It showed that the attorneys representing the claimant in the divorce action were the same as the mortgagees.

The question to be decided is whether the claimant voluntarily left his work with good cause.

REASONS FOR DECISION

Section 1256 of the California Unemployment Insurance Code provided that an individual shall be disqualified for benefits if he "left his most recent work voluntarily without good cause". In considering the good cause provision of section 1256 of the code, this board stated in Benefit Decision No. 5686 that good cause means "a real, substantial, or compelling reason for leaving employment such as would cause a reasonable person genuinely desirous of retaining employment to take similar action."

It is our opinion that the claimant's testimony under oath, coupled with the supporting documents presented to the referee and this board, is entitled to greater weight than the affidavit submitted by the employer's assistant treasurer, based upon information from the operations manager about a negative report from the ship's captain (Benefit Decisions Nos. 5492 and 6469). Therefore, we find that the claimant left his work because of a pending court proceeding at which his presence was required to avoid serious jeopardy to his property rights. The proceedings had already been continued once because of the claimant's absence and no further continuance would be granted. The ship upon which the claimant was employed was scheduled for an extended trip from the state of Washington to the East coast; and, had the claimant not left his work, he could not have been present at the court proceedings. Under these circumstances, we find that the claimant had a real, substantial, and compelling reason to leave his work which constituted good cause within the meaning of sections 1256 and 1030 of the code. In view of the pressing nature of this matter at the time the claimant left his work, Benefit Decisions Nos. 5016 and 5353 are distinguishable on their facts.

DECISION

The decision of the referee is reversed. The claimant is not subject to disqualification under section 1256 of the code. Any benefits paid to the claimant based on wages earned from the employer shall be chargeable under section 1032 of the code to Employer Account No. ###-###. Benefits are payable commencing April 8, 1956 provided the claimant is otherwise eligible.

Sacramento, California, November 21, 1956.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

MICHAEL B. KUNZ, Chairman

GLENN V. WALLS

ARNOLD L. MORSE

Pursuant to section 409 of the Unemployment Insurance Code, the above Benefit Decision No. 6514 is hereby designated as Precedent Decision No. P-B-273.

Sacramento, California, March 16, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

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