BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER RULING DECISION NO. 106 AS A PRECEDENT DECISION PURSUANT TO SECTION 409 OF THE UNEMPLOYMENT INSURANCE CODE

In the Matter of the Reserve Account of:

SEARS, ROEBUCK & COMPANY
(Employer-Appellant)

PRECEDENT RULING DECISION NO. P-R-372

FORMERLY RULING DECISION NO. 106

Account No.

Claimant: Maurice D. L. Johnson
S.S.A. No.

Referee's Decision No. LA-R-4403

STATEMENT OF FACTS

The referee's decision was set aside and the matter removed to the Appeals Board under the authority of section 1336 of the code [now section 413]. Written argument was submitted by the employer.

The claimant had established a benefit year beginning May 13, 1953. The claimant was employed by the employer from November 13, 1953 through December 11, 1953. Thereupon, the claimant filed an additional claim for benefits during the benefit year established on May 13, 1953. The appropriate notice was mailed to the employer on December 22, 1953, to which the employer filed an untimely reply on January 5, 1954. A notice of denial of ruling was issued to the employer on January 18, 1954, from which no appeal was taken by the employer.

Another benefit year was established by the claimant on October 31, 1954. The employer, as a base period employer, was on January 6, 1955 mailed a notice of such claim. The employer responded to that notice with information as to the cause of claimant's termination of employment. The department issued, on March 16, 1955, a notice

of denial of ruling on the ground that the employer was not entitled to a ruling under section 1030 of the code since he had not replied within the ten days subsequent to December 22, 1953, when the first notice of claim had been sent. The employer appealed from this denial of ruling.

On December 31, 1953, the department issued a determination under section 58(a)(1) of the Act [now section 1256 of the Unemployment Insurance Code] holding that the claimant was disqualified for benefits from December 11, 1953 through January 25, 1954 on the ground that the claimant had voluntarily left his most recent employment without good cause. No appeal was taken by the claimant, and the determination became final. The employer contends that its failure to respond within the statutory time after the notice of additional claim did not preclude a ruling as to charges against its reserve account with relation to the subsequent benefit year and that such ruling must conform to the department's determination of December 31, 1953.

The issues are:

1. Whether the employer is entitled to a ruling under section 1030 of the code with respect to the claimant's termination of employment on December 11, 1953.

2. Whether the ruling should have been based on the department's determination of December 31, 1953, which held that the claimant had left his employment without good cause and was subject to disqualification under section 58(a)(1) of the Act [now section 1256 of the Unemployment Insurance Code].

3. Whether the employer's account should be relieved of charges for any benefits paid to the claimant in the benefit year beginning October 31, 1954 and based on wages earned prior to December 11, 1953.

REASONS FOR DECISION

We have recently considered the same factual decision in Ruling Decision No. 99 [now Appeals Board Decision No. P-R-371] in which we held that, since the employer had neglected its duty as a last employer by having failed to submit disqualifying information within the 10-day period provided by code section 1030, its

status as a base period employer did not entitle it to a ruling upon receipt of the Notice of Computation of Claim. Based upon that decision, we hold that this employer was not entitled to a ruling since it had failed to submit disqualifying information within 10 days after December 22, 1953.

DECISION

The ruling of the department is affirmed. The employer is not entitled to a ruling under section 1030 of the code. Any benefits paid to the claimant which are based upon wages earned from the employer prior to December 11, 1953, are chargeable under section 1032 of the code to Employer Account No.

Sacramento, California, February 3, 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 Ruling Decision No. 106 is hereby designated as Precedent Decision No. P-R-372.

Sacramento, California, December 1, 1977.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

HARRY K. GRAFE

RICHARD H. MARRIOTT

HERBERT RHODES