BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER RULING DECISION NO. R-32 AS A PRECEDENT DECISION PURSUANT TO SECTION 409 OF THE UNEMPLOYMENT INSURANCE CODE.

In the Matter of the
Reserve Account of:

MONTGOMERY WARD and COMPANY
(Appellant)

Employer Account No.

CLARA A. BELSHAW
(Claimant)

S.S.A. No.

PRECEDENT
RULING DECISION
No. P-R-380

FORMERLY
RULING DECISION
No. R-32

The above-named employer appealed from the decision of a Referee (SF-R-626) which held that the claimant voluntarily left the appellant's employ with good cause under Section 39.1 of the Unemployment Insurance Act [now section 1030 of the Unemployment Insurance Code] and that the employer's account is chargeable with respect to benefits paid to the claimant.

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

STATEMENT OF FACT

The claimant worked for the appellant in San Jose until February 7, 1951. She resigned effective March 7, 1951, for reasons hereinafter set forth.

On March 11, 1952, the claimant established a benefit year by filing a claim for unemployment compensation disability benefits. On September 11, 1952, the claimant registered for work and filed a claim for unemployment

compensation benefits in the Palo Alto Office of the Department of Employment. The appellant, as base period employer, was notified that this claim had been filed, and responded to such notice by submitting to the Department information with respect to the claimant's separation from employment as required by Section 39.1 of the Act [now section 1030 of the Unemployment Insurance Code]. On November 18, 1952, the Department ruled that the claimant had not left her work with the appellant voluntarily and without good cause within the meaning of Section 39.1 of the Act [now section 1030 of the Unemployment Insurance Code]. The employer appealed to a Referee who affirmed the ruling of the Department.

The claimant had been for some time employed as the supervisor of the catalogue department in the appellant's San Jose department store. Toward the end of November 1950, a staff supervisor of the appellant's coast catalogue department advised the store manager by written memorandum that the claimant should be replaced because, in the opinion of the staff supervisor, the claimant's health was not such as to permit her to manage the local catalogue department. The claimant became aware of this recommendation and requested permission to work part-time so that she could obtain other employment. The request was granted and the claimant began working part-time, approximately seventeen hours per week in another department of the store. Her wages were based on a rate of $51.50 for a full week. From January 1, 1951, to the date of separation her wages totaled $65.

On or about January 1, 1951, the claimant obtained part-time employment with another employer at a wage of eighty-five cents an hour and thereafter she performed services for the appellant and the new employer simultaneously. Subsequently, the second employer offered the claimant full-time, permanent employment. On an undisclosed date prior to March 7, 1951, the claimant asked the appellant's personnel manager whether there was any prospect of steady employment with the appellant in the foreseeable future. She was advised that there was not. Thereupon the claimant resigned and began to work full time for the second employer.

REASON FOR DECISION

Section 39.1 of the Unemployment Insurance Act [now section 1030 of the Unemployment Insurance Code] provides in part that an employer shall be relieved of charges to

his account with respect to benefits paid to a claimant if it is ruled that such claimant left the employer's employ voluntarily and without good cause. The phrase "voluntarily and without good cause" appearing in this section of the Act must be given the same scope and meaning as its counterpart appearing in Section 58(a)(1) of the Act [now section 1256 of the Unemployment Insurance Code] (Ruling Decision No. 1).

We have consistently held that good cause for leaving employment within the meaning of the latter section exists only in those situations where the facts disclose a real, substantial and compelling reason for leaving work of such nature as would cause a reasonable person genuinely desirous of retaining employment to take similar action (Benefit Decision No. 5686).

In Ruling Decision No. 5, we stated in part as follows:

> "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. All of the facts and circumstances of each particular case must be examined and weighed in determining whether good cause exists for leaving employment."

In the present case, the claimant performed part-time services for the appellant at a wage rate in excess of that received for part-time services simultaneously performed for another employer. The record is silent as to the wage rate paid by the other employer for full time work. Upon ascertaining that there was no prospect of steady employment with the appellant in the foreseeable future, the claimant resigned to accept an offer of full-time work. Had she not done so, she would have lost an opportunity for full-time, permanent employment with the second employer. Under all the facts and circumstances of this case; it is our opinion that the claimant left her work with the appellant for reasons constituting good cause. Consequently, the appellant is not entitled

to relief of charges to its account under the provisions of Section 39.1 of the Act [now section 1030 of the Unemployment Insurance Code].

DECISION

The decision of the Referee is affirmed. Any benefits paid to the claimant based upon wages earned from the appellant prior to March 7, 1951, shall be chargeable under Section 39.1 of the Act [now section 1030 of the Unemployment Insurance Code] to employer account number

Sacramento, California, April 3, 1953.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

MICHAEL B. KUNZ, Chairman

GLENN V. WALLS

EDWARD CAIN

Pursuant to section 409 of the Unemployment Insurance Code, the above Ruling Decision No. R-32 is hereby designated as Precedent Decision No. P-R-380.

Sacramento, California, March 28, 1978.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

HARRY K. GRAFE

RICHARD H. MARRIOTT

HERBERT RHODES