



VIRGINIA EMPLOYMENT COMMISSION

DECISION OF APPEALS EXAMINER

NOTICE: This decision becomes final unless appealed in writing by any party named setting forth the grounds upon which the appeal is sought either at the office where the claim was filed or by mail to the Appeals Section, Virginia Employment Commission, P. O. Box 1358 Richmond, Virginia 23211, not later than midnight of

February 9, 1977

In the matter of:

INTERSTATE- PENNSYLVANIA

Claimant

Appellant:  Employer  Claimant

Karen L. Corbett  
c/o Paul King, Box 37  
Mt. Morris, Pennsylvania 15349

Claimant's S.S. No. : [REDACTED]

Decision No. : UI-76-393

Date Deputy's Determination: November 4, 1976

Date Referred or Appealed: November 15, 1976

Date of Hearing: December 20, 1976

Employer

C & P Telephone Co. of VA  
703 E. Grace Street  
Richmond, Virginia 23219

Place of Hearing: Waynesburg, Pennsylvania

Date of Decision: January 24, 1977

Date of Mailing: January 26, 1977

APPEARANCES: Claimant; Witness for the Claimant; Attorney for the Claimant

STATUTORY PROVISIONS & POINTS AT ISSUE: Code of Virginia section 60.1-52 (g) Was the claimant available for work during the weeks for which benefits were claimed?

FINDINGS OF FACT: The claimant appealed from a determination of the Deputy which declared her ineligible for benefits from November 30, 1975, through June 5, 1976.

Commission Decision No. 8259-C, dated August 9, 1976 reversed an earlier Appeals Examiner's decision and declared the claimant not subject to disqualification with respect to her separation from her last employment. This decision was based on the fact that the claimant had presented medical evidence to indicate that she was suffering from congenital heart disease and progressive deterioration of her medical condition which necessitated her leaving her job. Portions of the claimant's medical information read as follows:

"During the past year, she has noted that she is becoming bluer in color, and her shortness of breath and fatigue are worsening. She is able to perform only light housework, and of course, is unable to do anything out of the house. She has returned to live with her parents in Pennsylvania." ....

"It is most unusual for a person with Trachtology Fallot to survive to this age without more severe disability or even death. It appears, however that her condition is deteriorating. There is absolutely no question that she is completely disabled..."

Other information indicated that the claimant could lift no weight of more than twenty pounds, could not work while standing or walking, and was unable to bend, squat, crawl, climb, or reach above shoulder level. Moreover, the claimant's physician indicated she was unable to use her hands to push or pull or do fine manipulation or to use her feet for any repetitive movements.

The claimant had claimed benefits from November 30, 1975 through June 5, 1976 and had indicated that she was making job contacts during those weeks. She felt that she was eligible for benefits because the doctor's determination that she was totally disabled was not made until June of 1976.

OPINION: Section 60.1-52 (g) of the Unemployment Compensation Act provides that in order to be eligible for benefits, a claimant must be available for work during the weeks for which benefits are claimed.

In the present case, it is the opinion of the Appeals Examiner that even though the claimant's medical evidence came from a report made after the weeks in question were claimed, that medical evidence shows that her disability was not caused by a sudden change in her condition; rather it was marked by a progressive deterioration of her condition which had existed since birth. The claimant's own statements indicate that her medical condition prompted her to leave her last employment and restricted her to only light housework. Therefore, it is the opinion of the Appeals Examiner she has failed to show that she was able to work during the weeks in question so as to meet the requirements of the aforementioned section of the Virginia Act.

DECISION: The determination of the Deputy is hereby affirmed.

It is held that the claimant was not meeting the eligibility requirements of the Act from November 30, 1975 , through June 5, 1976, the claim weeks before the Appeals Examiner.

Charles A. Young, III  
Charles A. Young, III, Appeals Examiner

CAY:cg