



DECISION OF COMMISSION

In the Matter of:

Teresa Hobson
████████████████████

Date of Appeal

to Commission: April 18, 1986

Date of Review: May 6, 1986

Place: RICHMOND, VIRGINIA

Decision No.: 26931-C

Date of Mailing: May 9, 1986

Final Date to File Appeal

with Circuit Court: May 29, 1986

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This is a matter before the Commission on appeal by the claimant from the Decision of Appeals Examiner (UI-86-2339), mailed April 11, 1986.

ISSUE

Did the claimant receive any sum as benefits to which she was not entitled and is she liable to repay such sum to the Commission as provided in Section 60.1-132 of the Code of Virginia (1950), as amended?

FINDINGS OF FACT

The claimant filed a timely appeal from the Appeals Examiner's decision which declared her to be overpaid unemployment compensation in the amount of \$280.00 and liable to repay such sum to the Commission.

The claimant had filed for unemployment compensation effective December 9, 1984, indicating that she had become unemployed when the company she worked for was sold. She did state that she had collected severance pay from the new company for twelve weeks, beginning August 27, 1984, however, she had not mentioned the fact

that the new company had also offered her a job, which she had turned down. She was then paid unemployment compensation in the amount of \$280.00 for the weeks of December 9, 1984, through December 29, 1984.

It was later discovered that the claimant, in fact, turned down an offer of employment from the company which bought out her old employer in August of 1984. The Deputy then issued a Notice of Determination, which disqualified her for benefits effective December 9, 1984. The claimant's appeal from this determination was found to be non-timely by Commission Decision No. 26930-C, and the Deputy's determination, therefore, became final.

OPINION

Section 60.1-132 of the Virginia Unemployment Compensation Act provides:

"Any person who has received any sum as benefits under this title to which he was not entitled shall be liable to repay such sum to the Commission. In the event the claimant does not refund the overpayment, the Commission shall deduct from any future benefits such sum payable to him under this title unless the overpayment occurred due to administrative error, in which case the Commission shall deduct only fifty percent of the payment amount for any future week of benefits claimed, rounded down to the next lowest dollar until the overpayment is satisfied. Administrative error shall not include decisions reversed in the appeals process. In addition, the overpayment may be collectible without interest by civil action in the name of the Commission."

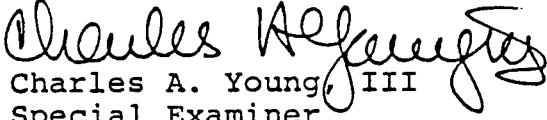
Here, the Appeals Examiner concluded that administrative error was involved because the claimant had disclosed at the time she filed her claim the fact that she had received severance pay from the company which bought out the one for which she worked. The Commission does not agree with this analysis. The fact that the claimant may have received severance pay from a successor corporation does not logically imply that there must have been an offer of work extended by that company. Indeed, it is quite logical to conclude that the action of a successor corporation in offering severance pay to the employees of the predecessor is being taken because those individuals are being laid off or replaced by others from the new company. The reason why this claimant was overpaid is because she failed to disclose to the Commission the fact that the successor corporation specifically offered her a job, which she refused. This is not administrative error. (Underscoring supplied)

Inasmuch as the claimant did receive \$280.00 after the effective date of her disqualification, that sum has become benefits to which she was not entitled and she is liable to repay such sum to the Commission.

DECISION

The Decision of Appeals Examiner is hereby affirmed and amended.

It is held that the claimant is overpaid unemployment compensation in the amount of \$280.00 and is liable to repay such sum to the Commission. It is further held that the overpayment is not the result of administrative error.


Charles A. Young, III
Special Examiner