

VIRGINIA EMPLOYMENT COMMISSION

DECISION OF APPEALS EXAMINER

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Decision No: S-13278-12985

SUITABLE WORK: 295
Length of unemployment

Date: December 14, 1962

POINTS AT ISSUE

- (1) Has the claimant been available for work during the week or weeks for which she claims benefits?
- (2) Did the claimant fail to accept available, suitable work when so offered?

FINDINGS OF FACT

Dan River Mills, Inc., Danville, Virginia, appealed from a determination of the Deputy, which held the claimant to be eligible for benefits without disqualification effective October 29, 1962. The appeal was filed on the grounds that the claimant was not available for work within the meaning of that term as used in the Virginia Unemployment Compensation Act.

Dan River Mills, Inc., Danville, Virginia, was the claimant's last employer where she had worked off and on since May of 1935. Her seniority date was June 4, 1945, and she last worked on October 24, 1962. She was employed as a hand draw-in operator, in the 8-B Dress Room, Riverside Division, on the first shift, at an average rate of \$2.218 per hour. She was separated from this employment due to lack of work. During this entire period of employment the claimant had reached her job from her home in Martinsville, Virginia, by either driving her own car or riding with another individual in a car pool.

On November 2, 1962, a letter was sent to the claimant by Dan River Mills, asking her to report to the employment office on or before November 9, 1962, in regard to possible employment. On November 9, the claimant called the supervisor, at which time she was offered a job as an inspector-learner, on the third shift, in the Number 8-Gray Inspection Room, Riverside Division. The training period for this work would be from four to eight weeks. The beginning pay was \$1.62 per hour, with an increase of \$.01 per week, up to \$1.295 per hour. After that, her earnings would depend upon production. She informed the individual that she would call back the following day to let them know her decision; however, she decided she would not accept the employment because of the wages, the distance from her home and the fact that it was third shift work. And, she did not call. Had she accepted this employment, it would not have affected her seniority rights on her previous job.

She filed her claim for benefits on October 22, 1962. On November 14, the claimant returned a questionnaire form and was interviewed by the Deputy. She expressed a willingness to take any kind of work, although she preferred

work in her regular occupation. She further indicated that she has no choice of the wages she would accept as long as it was suitable; and, she indicated she could work any hours or shifts, although she preferred the first. Her efforts to find work during this period has been to contact three grocery stores, a drug store and her former employer. On November 28, the claimant reported on her claim and stated that she had been to a department store and a laundry. Between that date and the hearing before the Examiner, she had applied to a dress shop and an industrial plant. She testified at the hearing that she would accept work on any shift in Martinsville, at a minimum rate of \$1.15 to \$1.25 per hour. She could give no reason as to why she had not applied to the industrial plants in the Martinsville area, where women are employed .

OPINION

Section 60-46(c) of the Virginia Unemployment Compensation Act provides in part that, in order to be eligible for benefits, a claimant must be available for work. Generally, to be considered available for work, among other things, a claimant must show that she is actively and earnestly looking for work, is ready and willing to accept all offers of suitable work, and does not place undue restrictions upon her employability.

This claimant has spent her entire working life with the same employer and doing the same type of work. There are no other employers within the immediate area of the claimant's residence who can offer similar work; therefore, the claimant, to find employment, must find employers who are willing to hire her as an inexperienced worker. To merely apply to places of employment in order to meet the active search for work requirements of the Act is not always sufficient to show an attachment to the general labor market. A person genuinely desirous of obtaining employment should, therefore, direct her efforts towards those employers who are willing to employ the services which the individual has to offer.

The claimant, in the instant case, although most of her work experience has been in industrial employment, has only applied to one employer who could offer this type of work. Her efforts to find employment have been directed mainly to grocery stores and other retail establishments where the only type of work available would be as a salesperson or a stock clerk. Inasmuch as there are a number of industrial establishments in the area who employ women, and since the claimant has not contacted these employers about prospective employment, the Examiner can only conclude that she has not demonstrated a genuine attachment to the general labor market or that she has met the availability for work requirements of the Act.

Section 60-47(c) of the Virginia Unemployment Compensation Act provides an individual shall be disqualified for benefits, but only after having served a waiting period as provided in Section 60-46 if it is determined by the Commission that such individual has failed, without good cause, either to apply for available, suitable work when so directed by the Employment Commission or to accept suitable work when so offered her, and the disqualification shall commence with the week in which such failure occurred, unless such failure occurred during the waiting period in which event the disqualification shall commence with the week following, and shall continue for the period of unemployment next ensuing until he has performed services for an employing unit during thirty days, whether or not such days are consecutive.

In determining whether or not any work is suitable for an individual, the Commission shall consider the degree of risk involved to his health, safety and morals, his physical fitness and prior training, his experience, his length of unemployment and the accessibility of the available work from his residence.

The records in this case clearly show that the claimant had worked for a number of years as a hand draw-in operator; and, at the time of her separation on October 24, 1962, she was earning an average of \$2.218 per hour. Some sixteen days later, the claimant was offered re-employment by the same employer on a job, which would pay very little more than 50% of what the claimant had previously earned. In view of the claimant's short period of unemployment at the time that this offer was made and since there was such a drastic reduction in what she could have earned on this job, the Examiner can only conclude that the claimant has shown good cause for her refusal to accept the offered employment. She therefore would not be subject to the disqualifying provisions of the Act. (Underscoring Supplied.)

DECISION

That portion of the Deputy's determination, holding that the claimant has met the eligibility requirements of the Act, is hereby reversed. It is held that the claimant has not met the eligibility requirements of the Act from October 22, 1962, through December 2, 1962, the claim weeks before the Examiner.

It is also held that no disqualification should be imposed in connection with the job refusal.

NOTE: Decision affirmed by the Commission in Decision No. 4017-C, dated January 25, 1963.