



VIRGINIA EMPLOYMENT COMMISSION
DECISION OF APPEALS EXAMINER

VOLUNTARY LEAVING: 500.25
 Wages-Expenses
 incident to job.

In the matter of:

Claimant

Kenneth R. Hewitt
 2324 Forest Drive
 Waynesboro, VA 22980

Employer

Hope Chemical Company
 Post Office Box 908
 Pawtucket, RI

Appellant:	<input type="checkbox"/> Employer	<input checked="" type="checkbox"/> Claimant
Claimant's S.S. No.	[REDACTED]	
Decision No.	UI-75-44	
Date Deputy's Determination.	November 29, 1974	
Date Referred or Appealed:	December 5, 1974	
Date of Hearing:	January 15, 1975	
Place of Hearing:	Waynesboro, Virginia	
Date of Decision:	January 15, 1975	
Date of Mailing:	January 17, 1975	

APPEARANCES: Claimant

STATUTORY PROVISIONS & POINTS AT ISSUE: Code of Virginia § 60.1-58 (a) Did the claimant voluntarily leave his last employment without good cause? § 60.1-52 (g) Has the claimant been available for work during the week or weeks for which he claims benefits?

FINDINGS OF FACT: The claimant appealed from a determination of the Deputy, which disqualified him for benefits effective October 20, 1974, for having left work voluntarily without good cause.

Hope Chemical Company, Pawtucket, Rhode Island, was the claimant's last employer for whom he had worked as a salesman from September 3, 1974, through October 17, 1974.

The claimant's income was by way of commission on sales made. He initially received a draw against commissions earned, but during the latter part of his employment his income was by way of commission only. He was required to furnish his own transportation and pay all expenses. The claimant found that he was not making any sales of consequence and, therefore, his expenses exceeded his income. Since he had no net income, the claimant resigned.

The claimant filed a claim for benefits effective October 20, 1974, and continued his claim series through November 2, 1974. During this period, he personally applied to employers each week for work.

OPINION: § 60.1-58 (a) of the Virginia Unemployment Compensation Act provides a disqualification if it is found a claimant left work voluntarily without good cause.

It has been repeatedly held that when an individual finds his work is not suitable, he would have good cause in leaving it. Inasmuch as this claimant was receiving no net income, it would appear that the work was unsuitable employment for him. It is concluded, therefore, that he had good cause in voluntarily leaving it.

It also is the opinion of the Appeals Examiner that the claimant was meeting the availability for work requirements of § 60.1-52 (g) of the Code of Virginia.

DECISION: The determination of the Deputy, disqualifying the claimant for benefits for having left work voluntarily without good cause, is hereby reversed.

It also is held that the claimant had met the eligibility requirements of the Act from October 20, 1974, through November 2, 1974, the claim weeks before the Appeals Examiner.


Gene Pitts, Appeals Examiner

OP:reh

NOTE: This decision was affirmed by the Commission in Decision No. 6597-C dated February 28, 1975.