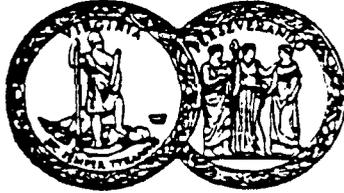


COMMONWEALTH OF VIRGINIA  
VIRGINIA EMPLOYMENT COMMISSION



DECISION OF COMMISSION

In the Matter of

Frederick J. Picard  
[REDACTED]

Hayes, Seay, Mattern & Mattern  
Roanoke, VA 24016

Employer

Date of Appeal  
To Commission: August 6, 1979

Date of Review: September 28, 1979

Decision No.: 12665-C

Date of Decision: October 4, 1979

Place: Richmond, Virginia

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This is a matter before the Commission on appeal by the claimant from the decision of Appeals Examiner (No. UI-79-5422), dated August 3, 1979.

ISSUE

Was the claimant unemployed during the weeks he has claimed benefits as provided in Section 60.1-23 of the Code of Virginia (1950), as amended?

FINDINGS OF FACT AND OPINION

The Findings of Fact of the Appeals Examiner are adopted by the Commission.

Section 60.1-23 of the Virginia Unemployment Compensation Act provides in part that:

"An individual shall be deemed 'unemployed' in any week during which he performs no services and with respect to which no wages are payable to him, or in any week of less than full-time work if the wages payable to him with respect to such week are less than his weekly benefit amount."

During the period in question, the claimant has obviously performed services and; hence, could not be deemed to have been totally unemployed during that period. The issue before the Commission to be decided is whether or not this claimant's employment for an average of 20 hours per week as a real estate salesman should be deemed full time work.

The plain meaning, as applied to the term "full time" is the amount of time considered to be normal or standard amount for working during a given period. (See Webster's New Collegiate Dictionary (1977) G & C Merriam Company) Thus, full time work may be considered to consist of the normal or customary period of work per week performed in the industry by workers performing work of the same or similar occupational classification.

Section 1.2 of the Virginia Real Estate Commission Regulations issued pursuant to Sections 54-1.10 and 54-740 of the Code of Virginia provides in pertinent part that:

"All persons making application for original real estate broker examination and license . . . (a) shall have been actively engaged as a real estate salesman for a period of thirty-six (36) of the forty (40) months immediately preceding his or her application. 'Actively engaged' shall be deemed to mean full-time employment by an association with a broker in performing those activities defined in Virginia Code Section 54-731 for an average of at least twenty hours per week. . ." (underscoring supplied)

It follows that services performed by a real estate salesman for an average of 20 hours per week for a real estate broker should be considered full time work within the meaning of the Virginia Unemployment Compensation Act. Since the claimant in this case has performed services for Joyce Real Estate, Incorporated, a real estate broker, for an average of 20 hours a week (see transcript page 4), he was obviously not unemployed during the period at issue.

The Commission is, therefore, of the opinion that the claimant cannot be held to have been an unemployed individual within the meaning of that term as used in the aforementioned section of the Virginia Act.

DECISION

The Decision of the Appeals Examiner is hereby affirmed. It is held that the claimant has not met the eligibility requirements of the Act from May 20, 1979, through June 16, 1979, because he was not an unemployed individual during that period.

  
Joseph L. Hayes  
Special Examiner