

COMMONWEALTH OF VIRGINIA  
VIRGINIA EMPLOYMENT COMMISSION



DECISION OF COMMISSION

In the Matter of:

Frank S. Coy  
[REDACTED]

Philip Morris, Inc.  
New York, New York

Date of Appeal  
to Commission: October 7, 1991

Date of Review: November 19, 1991

Place: RICHMOND, VIRGINIA

Decision No.: 36809-C

Date of Mailing: November 20, 1991

Final Date to File Appeal  
with Circuit Court: December 10, 1991

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This case comes before the Commission on appeal by the claimant from Appeals Examiner's Decision (UI-9111093), mailed October 1, 1991.

ISSUE

Did the claimant register for work and continue to report at an employment office in accordance with such regulations as the Commission may prescribe, as provided in Section 60.2-612.5 of the Code of Virginia (1950), as amended?

FINDINGS OF FACT

The findings of fact made by the Appeals Examiner have been reviewed and are fully supported by the evidence in the record. Accordingly, they are hereby adopted by the Commission with the following addition. The notice of appeal forms sent to the claimant regarding his appeal from the Deputy's determination, and the Appeals Examiner's decision regarding his separation from work, advised him that he should continue to file his claims for each week he is unemployed while the appeal is pending, and that his failure to file his claims promptly may result in the denial of benefits.

**OPINION**

Paragraphs one, two, and three of the opinion of the Appeals Examiner are hereby adopted by the Commission with the following additions which will be discussed in the following paragraphs.

The Commission agrees with the opinion of the Appeals Examiner that the claimant has not shown good cause for the late filing of his continued claim. The claimant did not file his claim for benefits forms for any weeks between October 23, 1989, and June 17, 1989, until June 23, 1989, which is more than 28 days from the week ending date of his last continued claim filed.

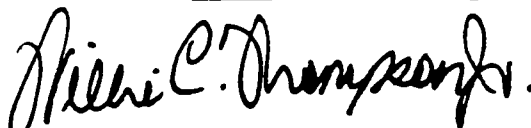
Although the claimant's attorney argued that the claimant did the right thing by not claiming benefits while the employer was opposing his claim, he has not shown that the claimant's situation fits within one of the regulatory exceptions cited in the opinion. Two notices of appeal sent to the claimant put him on notice that he should continue to claim benefits pending the outcome of the appeal. Moreover, the regulations are specific, and because the regulatory criteria were not satisfied, the Appeals Examiner had no choice but to decide the case the way he did.

Furthermore, the Commission finds no basis upon which to conclude that the Appeals Examiner's actions were arbitrary and capricious as alleged by the claimant.

**DECISION**

The decision of the Appeals Examiner is hereby affirmed.

The claimant is ineligible for benefits from October 23, 1988, to June 17, 1988, the claim weeks before the Commission, because he did not meet the eligibility requirements of the Code for that period.



Willie C. Thompson, Jr.  
Special Examiner

**NOTICE TO CLAIMANT**

IF THE DECISION STATES THAT YOU ARE DISQUALIFIED, YOU WILL BE REQUIRED TO REPAY ALL BENEFITS YOU MAY HAVE RECEIVED AFTER THE EFFECTIVE DATE OF THE DISQUALIFICATION. IF THE DECISION STATES THAT YOU ARE INELIGIBLE FOR A CERTAIN PERIOD, YOU WILL BE REQUIRED TO REPAY THOSE BENEFITS YOU HAVE RECEIVED WHICH WERE PAID FOR THE WEEK OR WEEKS YOU HAVE BEEN HELD INELIGIBLE. IF YOU THINK THE DISQUALIFICATION OR PERIOD OF INELIGIBILITY IS CONTRARY TO LAW, YOU SHOULD APPEAL THIS DECISION TO THE CIRCUIT COURT. (SEE NOTICE ATTACHED)