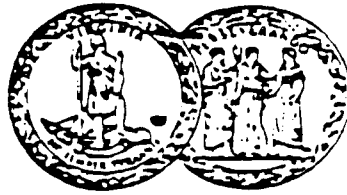


COMMONWEALTH OF VIRGINIA  
VIRGINIA EMPLOYMENT COMMISSION



DECISION OF COMMISSION

In the Matter of:

Mary T. Copeland  
████████████████████

U. S. Navy  
Washington, DC

Date of Appeal  
to Commission: May 18, 1992

Date of Review: June 30, 1992

Place: RICHMOND, VIRGINIA

Decision No.: 38856-C

Date of Mailing: July 1, 1992

Final Date to File Appeal  
with Circuit Court: July 21, 1992

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This case is before the Commission on appeal by the claimant from Appeals Examiner's Decision UCX-9201254, mailed April 27, 1992.

ISSUE

Was the claimant able to work, available for work and actively seeking and unable to find suitable work during the week or weeks for which benefits were claimed as provided in Section 60.2-612(7) of the Code of Virginia (1950), as amended?

FINDINGS OF FACT

The claimant filed a timely appeal from the Appeals Examiner's decision which affirmed an earlier Deputy's determination and declared her ineligible for unemployment compensation between October 27, 1991 and November 9, 1991.

The claimant filed her claim for unemployment compensation, effective September 15, 1991, after being released from active duty with the U. S. Navy. She certified at the time she filed her claim, that she received a copy of the booklet entitled "Unemployment Insurance Handbook for Claimants" which, among other things, provides information concerning what constitutes an active search for work on page 9. Nowhere in this booklet does it state that claimants must seek work by contacting prospective employers on more than one day per week.

When the claimant turned in her claim form covering the two weeks between October 27, 1991 and November 9, 1991, she indicated that she had been ready, willing and able to work each day, that she had refused no offers of work, and that she had been unemployed during both weeks. She also stated that she had contacted two prospective employers on November 2, 1991, and two more on November 8, 1991. She provided the names of the employers, their addresses, their telephone numbers, the name of the individuals contacted, and the results of those contacts. Nothing in the claimant's local office file indicates that she had ever been previously warned that her job search efforts were inadequate because she was not contacting employers on more than one day each week.

#### OPINION

Section 60.2-612(7) of the Code of Virginia provides that in order to be eligible for benefits for a particular week, a claimant must be able to work, available for work and actively seeking and unable to find suitable work during that week. Additionally, claimants must provide the names of employers contacted each week in an effort to find work, with such contacts being subject to verification through a program designed for that purpose.

Before the predecessor to this section of the Code was amended to specifically require that claimants make an active search for work, such a requirement was found to exist in order to be considered "available for work." Claimants were required to actively and unrestrictively endeavor to obtain suitable employment in the labor market where they resided without attaching conditions not unusual and customary in that occupation but which the claimant desires due to his or her particular needs or circumstances. Whether a claimant is available for work during a specific period is a question of fact to be determined by the Commission. V.E.C. v. Meredith, 206 Va. 206, 142 S.E.2d 579 (1965).

Nowhere in the Code of Virginia nor in the Regulations and General Rules Affecting Unemployment Compensation is there any specific requirement that claimants seek work on more than one day a week. It is certainly conceivable that after a long period of unemployment, a claimant who persisted in looking for work only one day a week, might be found to have imposed an unreasonable restriction upon his or her employability so as to be considered unavailable for work under the doctrine previously enunciated in the Meredith case. Nevertheless, fundamental fairness would demand that such a claimant at least receive a warning that they run the risk of being declared ineligible due to such a restriction before such an ineligibility is actually imposed.

In this case, the claimant had been unemployed less than two months at the time the two weeks in question were claimed. She met every requirement set forth in the "Unemployment Insurance Handbook for

Claimants" with respect to her job search for those two weeks, and had not been previously warned that looking for work on only one day a week would no longer be acceptable. Under such circumstances, the Commission concludes that she did not place such undue restrictions upon her employability as would make her ineligible with respect to those weeks.

DECISION

The decision of the Appeals Examiner is hereby reversed.

The claimant is eligible for unemployment compensation between October 27, 1991 and November 9, 1991, the claim weeks before the Commission.

  
Charles A. Young III  
Special Examiner