

COMMONWEALTH OF VIRGINIA
VIRGINIA EMPLOYMENT COMMISSION



DECISION OF COMMISSION

In the Matter of:

Sharon L. Fraley
████████████████████

The Dress Barn, Inc.
Dale City, Virginia

INTERSTATE

Date of Appeal
to Commission:

April 21, 1994

Date of Review:

June 3, 1994

Place: RICHMOND, VIRGINIA

Decision No.:

45456-C

Date of Mailing: June 4, 1994

Final Date to File Appeal

with Circuit Court: June 24, 1994

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This case came before the Commission on appeal by the claimant from a Decision of Appeals Examiner (UI-9405541), mailed April 11, 1994.

ISSUE

Did the claimant leave work voluntarily without good cause as provided in Section 60.2-618(1) of the Code of Virginia (1950), as amended?

FINDINGS OF FACT

On April 21, 1994, the claimant filed a timely appeal from the Appeals Examiner's decision which disqualified her from receiving benefits, effective January 30, 1994. The basis for that disqualification was the Appeals Examiner's conclusion that the claimant left work voluntarily without good cause.

Prior to filing her claim for benefits, the claimant worked for The Dress Barn, Inc., in Dale City, Virginia. She was employed as a co-manager from June 1, 1993 through October 1, 1993. At the time of her separation from work, the claimant was working between 45 and 48 hours weekly, and was paid a salary of \$22,000.00 annually.

In July of 1993, the claimant missed several weeks from work because of a severe illness that required her hospitalization and three separate surgical procedures. She returned to work on a part-time basis on August 13, 1993. A week later, she resumed her full-time schedule.

The claimant did not receive any salary during the time that she was in the hospital. Also, the medical insurance that she had through the employer did not take effect until after she had been employed for 90 days. Consequently, she was personally responsible for a substantial amount of medical bills related to her hospitalization.

As a result of her medical expenses and the loss of income while she was hospitalized, the claimant was in dire financial straights upon returning to work. She had significant difficulties meeting her living expenses, particularly her \$300.00 per month car payment and her apartment rent.

The claimant was renting an apartment from a landlady who was a friend of the family. The landlady had told the claimant on occasion that she needed the rent; however, on other occasions, the landlady told her that she understood the predicament that she was facing, and that she did not need to worry about the rent.

On October 1, 1993, the claimant was at work when she received a telephone call from the landlady. The landlady told her that she had packed her belongings and evicted her from the apartment. She also told the claimant that she had called her father so that he would come and take her home to West Virginia. The claimant was greatly distressed by this unexpected development. She informed her supervisor that she was quitting for personal reasons. She returned to her apartment and discovered that the landlady had packed her belongings and evicted her from the apartment. The claimant then returned to West Virginia with her father.

Prior to being notified of her eviction, the claimant had considered moving in with a roommate to share expenses. She had reviewed advertisements in the local newspaper for roommates; however, she did not pursue that alternative at the time because she did not have sufficient funds to pay her own share of the expenses. The claimant had attempted to obtain a loan to defray her medical bills and bring her car payment and rent current. She was unsuccessful in obtaining a loan.

OPINION

Section 60.2-618(1) of the Code of Virginia provides a disqualification if the Commission finds that a claimant left work voluntarily without good cause.

In construing the meaning of the phrase "good cause," the Commission has consistently limited it to those factors or circumstances which were so substantial, compelling and necessitous as would leave a claimant no reasonable alternative other than quitting work. Accord, Phillips v. Dan River Mills, Inc., Commission Decision 2002-C (June 15, 1955); Lee v. V.E.C., 1 Va. App. 82, 335 S.E.2d 104 (1985). In cases arising under this statute, the burden of proof is upon the claimant to establish good cause for leaving work. Kerns v. Atlantic American, Inc., Commission Decision 5450-C (September 20, 1971).

As a general proposition, problems with housing or personal finances would not constitute good cause for quitting work. Nevertheless, that does not mean that such problems would never constitute good cause. In the case of Wright v. Prince Edward County Department of Social Services, Commission Decision 38232-C (June 15, 1992), the claimant quit her job largely due to the fact that she and her family had been evicted from their home. In finding that the claimant had good cause, the Commission stated:

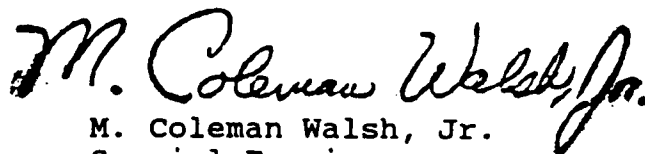
The claimant and her husband continued to contest the foreclosure proceedings up to the point where they were ordered by the court to vacate the home. They made a reasonably diligent effort to locate alternative housing within the Farmville area, but were not successful. The claimant's new residence was 70 miles from her job, and it would not be reasonable to expect this claimant to commute that distance to and from work.

The Commission is of the opinion that the principles set out in the Wright case are applicable here. The primary basis for the claimant's decision to quit her job was the fact that she had been evicted by her landlady. Although the claimant had been experiencing financial difficulties, she had also been told by the landlady that she should not worry about the rent. When that is coupled with the fact that the landlady was a family friend, it was reasonable for the claimant to assume that her housing arrangements were not in jeopardy because she was delinquent in her rent. That situation changed suddenly and unexpectedly when the claimant received a telephone call at work from the landlady on October 1, 1993. At that point, the claimant did not have an opportunity to obtain alternative housing because she had been evicted and her belongings were outside her former apartment. Since she had no money to pay another landlord or a roommate, she had no reasonable alternative other than to return to West Virginia.

Given these particular circumstances, the Commission must conclude that the claimant established good cause for voluntarily leaving her job. Therefore, no disqualification may be imposed based upon her separation from work with The Dress Barn, Inc.

DECISION

The decision of the Appeals Examiner is hereby reversed. The claimant is qualified to receive benefits, effective January 30, 1994, based upon her separation from work with The Dress Barn, Inc.


M. Coleman Walsh, Jr.
Special Examiner