



DECISION OF COMMISSION

In the Matter of:

Everleane T. Randolph
[REDACTED]

Huff-Cook, M.B.A.
Lynchburg, VA

Date of Appeal
to Commission: August 28,
Date of Hearing: November 12,
Place: RICHMOND, VIRGINIA
Decision No.: 25734-C
Date of Mailing: June 11, 1986
Final Date to File Appeal
with Circuit Court: July 1, 1986

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This matter comes before the Commission as a result of the claimant's appeal from the decision of the Appeals Examiner (UI-85-5996), dated August 28, 1985.

APPEARANCES

Attorney for Claimant

ISSUE

Did the claimant leave work voluntarily without good cause as provided in Section 60.1-58(a) of the Code of Virginia, (1950), as amended?

FINDINGS OF FACT

The claimant filed a claim for unemployment compensation effective December 30, 1984, giving Huff-Cook, M.B.A. as her last 30-day employer. She indicated on her initial claim for benefits that she was separated because she "didn't have sure transportation." The employer filed a separation report dated January 8, 1985, which was received in the Farmville local office on January 10, 1985. In that report, the employer indicated that the claimant left voluntarily due to her loss of transportation. Further, it indicated that it did not wish to attend a predetermination proceeding. The claimant's claims were certified, and she was paid \$112 weekly benefit amount for the 18-week claim period which began December 30, 1984, and ended May 4,

1985. Subsequently, on July 26, 1985, the Deputy issued a notice of determination which held the claimant disqualified for benefits for having left employment voluntarily without good cause. The claimant filed a timely appeal, and an appeals hearing was held on August 19, 1985. The claimant appeared and offered testimony at the hearing. Thereafter, the Examiner issued the aforementioned decision on August 28, 1985, which affirmed the Deputy's determination and held the claimant disqualified for benefits for having voluntarily left her employment without good cause.

OPINION

Section 60.1-58(a) of the Code of Virginia (1950), as amended, provides for a disqualification if it is found an individual has voluntarily left her employment without good cause.

The claimant, by counsel, argues that the issuance of payment to her was the Deputy's initial determination, and that such payment became final sometime prior to the mailing of the July 26, 1985, written determination which held her disqualified for benefits. The Commission cannot agree. A determination concerning the claimant's entitlement for benefits cannot become final until all reasonable efforts to notify all parties of it have been made. See California Department of Human Resources v. Java, 402 US 121 (1971). This case involves an issue which arises under Section 60.1-58(a) of the Code, supra, and the employer is an interested party. To hold that the issuance of a benefit check was the equivalent of a determination would constitute a denial of the employer's due process right of notification.

The claimant asserts that the notice of determination issued nearly 7 months after she initiated her claim for benefits was not prompt within the meaning of Section 60.1-61 of the Code and should be void. Section 60.1-61 provides in pertinent part that:

"Notice of determination upon a claim shall be promptly given to the claimant by delivery there- to or by mailing such notice to the claimant's last known address. In addition, notice of any determination which involves the application of the provisions of Section 60.1-58, given in the same manner to the most recent 30-day employing unit by whom the claimant was last employed and any subsequent employing unit who is a party thereto. . . .The Deputy shall promptly notify the claimant of any decision made by him at any time which in any manner denies benefits to the claimant for one or more weeks."

The statute does not define the word "promptly." Therefore, it must be accorded its ordinary meaning. Promptly means without delay, and with reasonable speed. See Black's Law Dictionary, Fifth Edition, West Publishing Company, Minnesota (1979) and The American Heritage

Dictionary, Second College Edition, Houghton Mifflin Company, Boston, (1982).

Given the circumstances in this case, it cannot be said that the Notice of Deputy's Determination was rendered promptly within the meaning of the Code. See Flatwoods Construction Company v. Virginia Employment Commission and Thomas Bresett, Circuit Court of Botetourt County, Final Order, April 25, 1986, and Lewis C. Crone, Jr. v. Kitchins Equipment Company, Commission Decision No. 18398-C, July 1, 1982. As the claimant points out, the Deputy had obtained sufficient facts concerning the claimant's separation from employment to make a written determination concerning her entitlement to benefits within two weeks of the time she filed her claim, and there is nothing in the record which explains the reason it took six months to issue such a determination. For this reason, the Commission is of the opinion that the determination failed to satisfy the statutory requirement for promptness and is void.

DECISION

It is hereby ordered that the Deputy's determination dated July 26, 1985, the claimant's appeal dated July 29, 1985, the notice of hearing mailed August 7, 1985, the appeals proceedings held on August 19, 1985, the Appeals Examiner's decision dated August 28, 1985, and the claimant's appeal therefrom dated August 28, 1985, are vacated.


Patrice Taylor Johnson
Special Examiner