

COMMONWEALTH OF VIRGINIA  
VIRGINIA EMPLOYMENT COMMISSION

ABLE & AVAILABLE: 160.05  
Effort to Secure Employment  
or Willingness to Work --  
General.



DECISION OF COMMISSION

In the Matter of:

Nash O. Thompson, II  
████████████████████

Mantech Mathetic Corporation  
Columbus, Ohio

Date of Appeal  
to Commission: May 4, 1988  
Date of Review: May 12, 1988  
Place: RICHMOND, VIRGINIA  
Decision No.: 030211C  
Date of Mailing: May 20, 1988  
Final Date to File Appeal  
with Circuit Court: June 9, 1988

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This is a matter before the Commission on appeal by the claimant from two decisions of the Appeals Examiner (UI-8803961 and UI-8803962), both mailed May 5, 1988.

ISSUES

Does the claimant have good cause to reopen the Appeals Examiner's hearing as provided in Regulation VR 300-01-4.2 I of the Rules and Regulations Affecting Unemployment Compensation?

Was the claimant able to work, available for work, and actively seeking and unable to obtain suitable work as provided in Section 60.2-612.7.a of the Code of Virginia (1950), as amended?

FINDINGS OF FACT

By letter postmarked May 4, 1988, and received on May 5, 1988, the claimant requested a reopening of the Appeals Examiner's hearing that had been scheduled for May 3, 1988. The Appeals Section issued the Decisions of Appeals

Examiner, notwithstanding the receipt of the claimant's letter requesting a reopening. Pursuant to Regulation VR 300-01-4.2 I, the letter requesting a reopening was treated as an appeal from the Decision of Appeals Examiner.

The issue presented is whether the claimant was actively seeking work during the period of March 6, 1988, through March 19, 1988. Both the Deputy and the Appeals Examiner held that the claimant was ineligible to receive benefits for those two claim weeks based upon their conclusion that he was not actively seeking work.

The claimant has a PH.D. degree in International Management, Business, and Education. His field of expertise is in education and training systems, engineering, and management for Allied Military Organizations. He has worked in this field for the past 27 years. During that time, 95% of all of his job assignments have been located overseas. There are very few companies in the United States which offer work in the claimant's area of expertise. For this reason, the claimant's job search was directed at foreign and multi-national corporations.

Since becoming unemployed on January 13, 1988, the claimant has engaged in an extraordinarily active search for work. He would normally work between 8 and 12 hours a day, five days each week in an effort to obtain work. He spent this time completing job applications, reading eight newspapers, journals, and business guides daily, calling prospective employers, mailing resumes, and interviewing with companies. Since the vast majority of employers in the claimant's field of expertise are located overseas, the bulk of his job search was conducted by mailing resumes, job applications, and supplemental materials to those companies. This is the usual and customary manner of finding work in the claimant's profession.

During the claim weeks before the Commission, the claimant engaged in this type of concentrated job search. In addition, during the claim week ending March 12, 1988, he had a personal interview with a prospective employer. Although this was a follow-up visit to one he had on March 3, 1988, the claimant was pursuing the most promising job prospect he had at the time. During the claim week ending March 19, 1988, the claimant mailed resumes to the U. S. Government Office of Personnel Management and Training, and to the World Bank.

OPINION

Although the claimant has made a request that the Appeals Examiner's hearing be reopened, the Commission is dismissing that request. However, this dismissal is not because the request should not have been granted, but based upon the Commission's conclusion that, as a matter of law, the claimant is eligible to receive benefits for the weeks in question. Accordingly, since the Commission can favorably dispose of the case based upon the record before it, remanding the case would be unnecessary.

Section 60.2-612.7.a of the Code of Virginia provides that an unemployed individual, to be eligible to receive benefits with respect to any week, must be able to work, available for work, and actively seeking and unable to obtain suitable work.

The issue presented by the claimant's appeal is governed by the principles articulated in the case of Virginia Employment Commission v. Meredith, 206 Va. 206, 142 S.E.2d 579 (1965). In that case, the Virginia Supreme Court provided the following interpretation of the phrase "available for work":

The phrase "available for work," as used in this section, requires a claimant to actively and unrestrictively endeavor to obtain suitable employment in the market where he resides. Stated in another way, a claimant must actively seek employment and be willing to accept any suitable work which may be offered him, without attaching conditions not usual and customary in that occupation but which he may desire because of his particular needs or circumstances.

In the present case, the evidence in the record, which is comprised of the exhibits introduced at the hearing conducted by the Appeals Examiner, establishes that the claimant was making an active and unrestrictive search for work during the claim weeks in question as well as the entire period of his unemployment through March 19, 1988. In reviewing this case, it appears that the claimant was held ineligible only because he did not make a certain number of personal job contacts. While the Commission has always recognized the value of personal job

contacts, that does not necessarily mean that every unemployed claimant must make two or more personal contacts each week to be eligible to receive benefits. In reviewing whether a claimant's job search meets the requirements of the statute, the Commission should consider, among other things, the number of job contacts, the nature of those contacts, the claimant's experience and prior training, his particular area of expertise, and the way jobs are customarily obtained in his field or profession. When all of those factors are taken into account, the Commission is satisfied that this claimant has actively and unrestrictively sought work during the claim weeks in question. Accordingly, he is eligible to receive benefits for the period of March 6, 1988, through March 19, 1988.  
(Underscoring supplied)

DECISION

The decisions of the Appeals Examiner, Decision UI-8803961 and Decision UI-8803962, are hereby reversed. The Commission finds that the claimant is eligible to receive benefits with respect to the period of March 6, 1988, through March 19, 1988, the claim weeks before the Commission.

  
M. Coleman Walsh, Jr.  
Special Examiner