

UNEMPLOYMENT COMPENSATION COMMISSION OF VIRGINIA

DECISION OF COMMISSIONER

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Decision No.: 356-C

ABLE AND AVAILABLE - 165.2

Date: July 23, 1948

Employer requirements -
Physical Status

This case is before the Commission on appeal by the claimant from the decision (No. D-2475; A.E.-11442) of the Examiner, dated June 29, 1948.

THE ISSUE

Has the claimant been available for work while claiming benefits?

FINDINGS OF FACT

The claimant, an employee of Celanese Corporation of America, obtained a leave of absence for sixty days from December 2, 1947, on account of her physical condition. Upon the expiration of this period the leave was extended for a further period, expiring on March 17th. She reported for work about the end of this second leave of absence, having been advised by her personal physician that, in his opinion, she was able to resume her employment. The company physician, however, was of the opinion that she was still unable to do the type of work required by her employer and she was not re-instated on the payroll. Claimant lives in a rural section, but owns a car and would be able to commute to areas where employment is furnished for women. She filed her claim for benefits on April 1, 1948. She has applied for work at Martinsville, Virginia, with the DuPont Company. She states that she feels that she was able to resume her work at Celanese on March 17th and was still willing to accept re-employment there at the time of the hearing before the Examiner. Insofar as the record shows the claimant has not been directed by the Employment Service to any jobs since the filing of the claim and her registration for work.

The Deputy was of the opinion that claimant was not available for work, which opinion was concurred in by the Examiner.

OPINION

According to the claimant's own statement and the professional opinion of her personal physician she was able to work at the time the claim was filed. The physician employed by Celanese was of the opinion, however, that she was unable to meet the physical standards established by that company. The claimant, although she lives in a rural area, has her own car and transportation is no problem with her. She has sought employment at Martinsville which would necessitate her moving to that area. Her personal physician has expressed the opinion that should she return to employment it would aid in final and complete restoration to normal health.

The fact that the Company physician was of the opinion that the claimant was unable to meet the standards of physical fitness established by the company for employees is not, in itself, conclusive that the claimant is not reasonably able to perform ordinary work. The claimant's personal opinion, supported by her personal physician, is entitled to great weight. There can be no doubt that the claimant has been an eager applicant for suitable employment. Moreover, the company physician, according to the record, advised the claimant to seek another job, indicating that he felt that she was able to do some other type of work. (Underscoring supplied)

The Unemployment Compensation Act is a remedial statute and where there is doubt the doubt should be resolved in favor of the general purpose of the Act. While the circumstances in this instance create a doubt regarding the claimant's ability to accept and perform some types of jobs, nevertheless, they do not justify the conclusion that this claimant has been unable to perform reasonable tasks while claiming benefits. It would seem that she has met the requirements of the Act and that she has established her availability and ability to work.

DECISION

For the reasons stated herein the decision of the Deputy, affirmed by the Examiner, is reversed and set aside. The claimant is declared eligible for benefits.

The Deputy will process the claim accordingly.