



DECISION OF COMMISSION

In the Matter of

Jean M. McLaughlin, Claimant  
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Eighth Sea, Inc.  
Harrisonburg, Virginia

Employer

Date of Appeal  
To Commission: July 25, 1973

Date of Hearing: August 9, 1973

Decision No.: 6068-C

Date of Decision: August 17, 1973

Place: Richmond, Virginia

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This is a matter before the Commission on appeal by the claimant from the decision of the Examiner (No. UI-73-1279) dated July 18, 1973.

ISSUE

Was the claimant available for work during the week or weeks for which she claims benefits within the meaning of § 60.1-52 (g) of the Code of Virginia (1950), as amended?

FINDINGS OF FACT

The claimant, who had been employed as a secretary and general office manager, was separated from her last thirty day employer for reasons which are not disqualifying under the Virginia Unemployment Compensation Act. The Appeals Examiner's decision notes that shortly before filing her claim for benefits, the claimant reported to the Harrisonburg Office of the Commission, registered for work, stated to the interviewer that she was planning to stay in the area for only a few months, and was seeking an interim job. The decision states that for this reason the claimant was not referred to clerk-typist work which she had performed on the four jobs she had held in the past.

The claimant registered for a summer ceramics class at Madison College beginning June 19, 1973. Her class hours initially were from 9:30 a. m. to 11:45 a. m. In her letter of appeal, the claimant stated that she intended to

cease the course as soon as she found a job. At the hearing before the Appeals Examiner, the claimant explained that she registered for the ceramics class "to fill up the hours because I'm unemployed"; that she expected to receive three credits for the class but was not a full-time college student; and that the class had flexible attendance hours between 7 a. m. and 11 p. m. The claimant also testified that she attended the class in the morning for the first few weeks, while looking for jobs in the afternoon, and then changed to an evening schedule.

By letter dated July 23, 1973, the claimant has informed the Commission that she has accepted a position as stenographer with the Virginia National Bank.

### OPINION

Section 60.1-52 (g) of the Virginia Unemployment Compensation Act provides, in part, that in order to be eligible for benefits a claimant must be "available for work." Neither this section or the decisions of the Commission require a claimant to seek "permanent" work in order to be eligible to receive benefits. The general rule propounded by the Commission has been that in order for a claimant to be deemed available for work she must make an active search for work, be ready and willing to accept all offers of suitable work and does not place any undue, unreasonable or material restrictions upon her employability. (Underscoring Supplied)

The Commission in Decision No. S-4831-4719 (December 12, 1956) in reference to a claimant who was seeking temporary work stated:

"Since she is available only for temporary work, the difficulties in finding employment are necessarily greater than a person who is available to accept permanent full time work. Therefore, in order to find employment these individuals must make a more extensive and diligent search for work and without placing any other undue restrictions upon their employability."

In the present case, the claimant indicated to the interviewer that she was not planning to stay in the Harrisonburg area and was only seeking an interim job. Although this may have inhibited the Commission's opportunity to assist the claimant in finding work, the fact that temporary work is sought does not render a claimant ineligible to receive benefits.

Concerning the eligibility of student claimants for benefits, the Commission adopts the following guidelines:

1. Where the claimant voluntarily leaves his employment in order to go to school, he will be held to be unavailable for work and not entitled to any benefits.
2. Where the claimant has not voluntarily left work and is eligible for benefits, but he enters college or university or some other school for the purpose of

pursuing general academic or professional courses, this Commission will assume that his intention is to remain in school during the term and that, therefore, he will not be available for work and not entitled to benefits.

3. If the circumstances are such that the claimant, if offered employment, could accept the employment and continue to pursue his student activities (at night or at hours not to conflict with his employment) and it would not be necessary to offer the claimant a special type of work, then we think that the claimant would not be disqualified on account of his student activities. For example, if the student desires to take a business course and the hours for the course are available outside of reasonable employment hours, then the student should not be disqualified.
4. The mere fact by itself that a claimant becomes or intends to become a student is not a disqualifying factor, but it is one that requires investigation of all the facts and of the ultimate aim and intention of the claimant. For example, one claimant has stated that he intends to enter college as a ministerial student and states that this will require five hours of his day and that this leaves him eight hours for employment and eleven hours for rest, sleep, etc. This class of claimant would be disqualified because he would not be available for work except for a special type of work and not during usual business hours. (Underscoring Supplied)

The facts in the present case indicate that the claimant was not a full-time student but was only attending a summer term ceramics class with flexible attendance hours which she was willing to give up when she found a job. Under these circumstances, the Commission holds that the claimant had not placed any undue, unreasonable or material restriction upon her employability.

The Commission is of the opinion that when the primary goal of a claimant is to obtain employment and not an education and the claimant meets the other availability requirements mentioned in this decision, then the claimant should be held eligible for benefits. (Underscoring Supplied)

As aptly stated by the court in Stephen Patronas v. Unemployment Compensation Board. Commonwealth Court of Pennsylvania, 5-17-72 (reported in CCH Unemployment Insurance Reports at page 41,656), the Commission emphasizes the following distinction.

"It should not be assumed that this decision will set a precedent for large numbers of college students to

finance their college education by way of unemployment compensation benefits. The factual situations in this case . . . are clear, and they permit the courts to draw a line between claimants who are basically students and claimants who are basically committed to the work-force but in addition are attempting to better themselves by continuing their education."

In summary, it is the opinion of the Commission that this claimant is not rendered ineligible for benefits for seeking temporary as opposed to permanent work or by her attendance at the ceramics class.

DECISION

The decision of the Appeals Examiner is hereby reversed. Since there is only incomplete evidence concerning the claimant's efforts to find employment during the claim weeks from June 3, 1973, through June 30, 1973, the Deputy is directed to determine the claimant's availability in conformity with this decision.



B. Redwood Councill  
Assistant Commissioner