



VIRGINIA EMPLOYMENT COMMISSION
DECISION OF APPEALS EXAMINER

NOTICE: This decision becomes final unless appealed in writing by any party named setting forth the grounds upon which the appeal is sought either at the office where the claim was filed or by mail to the Appeals Section, Virginia Employment Commission, P.O. Box 1358, Richmond, Virginia 23211, not later than midnight of November 28, 1985

In the matter of:

Claimant:

Darrell L. Jenkins
P. O. Box 5722
Charlottesville, VA 22905

Last 30-Day Employing Unit:

General Electric
Wellner Drive and College Boulevard
Portsmouth, VA 23707

Subsequent Employing Unit:

Appellant:

Claimant
 Last 30-Day Employing Unit
 Subsequent Employing Unit

Claimant's S.S.
No.: [REDACTED]

Decision No.:

UI-85-8067

Date Deputy's
Determination:

October 7, 1985

Date Referred
or Appealed:

October 9, 1985

Date of Hearing:

October 28, 1985

Place of Hearing:

Charlottesville, VA

Date of Decision:

October 28, 1985

Date of Mailing:

November 7, 1985

APPEARANCES: Claimant; Witness for Claimant

STATUTORY PROVISION(S) AND POINT(S) AT ISSUE: Code of Virginia - Section 60.1-52.1, Is the claimant in training with approval of the Commission?

FINDINGS OF FACT: The claimant filed a timely appeal from a determination of the Deputy which declared him ineligible for benefits from September 22, 1985 through September 28, 1985.

The claimant had filed a claim for unemployment compensation, effective July 5, 1985, after being laid off from his last employment. He was also certified as being entitled to a trade readjustment allowance based upon his separation since his employment was considered to be adversely affected under the provisions of the Trade Act of 1974.

On July 18, 1985, the claimant requested approval of a training program under the Trade Act of 1974. This was a classroom program in computer aided drafting and design offered at the Piedmont Virginia Community College in Charlottesville, Virginia.

It involved a total of 97 credit hours over two years between September 21, 1985 and August 30, 1987. On September 3, 1985, the claimant's request for approval of this training program was granted by the Commission.

During the week of September 22, 1985 through September 28, 1985, the claimant attended all of his classes under the approved course of study plus one extra class which he had chosen to take on his own. Although the approved course of study contained only 18 credit hours when his labs were included, he was spending over 30 hours during that week in his training program.

OPINION: Section 60.1-52.1 (A) of the Virginia Unemployment Compensation Act provides that no otherwise eligible individual shall be denied benefits for any week because he is in training with the approval of the Commission with respect to those provisions of Section 60.1-52(g) of the Act pertaining to availability for work. Subsection (B) provides that no otherwise eligible individual shall be denied benefits for any week because he or she is in training approved under Section 236 (a) (1) of the Trade Act of 1974.

Regulation XIV (B) of the Rules and Regulations Affecting Unemployment Compensation provides the criteria under which training shall be approved by the Commission. Some of those requirements are that there must be a minimum of 30 hours of classroom attendance each week and the course of study should not be one primarily designed to lead to an academic degree.

In the present case, it is questionable whether the claimant's course of study would have been approved by the Commission had he requested it as an ordinary claimant for unemployment insurance. It is also apparent that the Deputy used the provisions of the aforementioned Regulation to deny the claimant benefits for the week in question. Nevertheless, the number of hours the claimant was in school during the week is unimportant as this Regulation has nothing to do with his case at all.

From the evidence, it is apparent that the claimant's course of study was approved under the Trade Act of 1974 by the Commission as of September 3, 1985. Because of this, his case was removed from the application of Regulation XIV by the provisions of Section 60.1-52.1 (B) previously cited. Therefore, all the claimant had to do to meet the eligibility requirements of the Act was to attend regularly his approved course of study and he did so. For this reason he should be declared eligible for benefits during the week in question. (Underscoring supplied)

DECISION: The determination of the Deputy is hereby reversed.

It is held that the claimant was meeting the eligibility requirements of the Act from September 22, 1985 through September 28, 1985 because he was enrolled in and regularly attending training approved under the Trade Act of 1974 with respect to that week.

C. A. Young III

C. A. Young, III
Appeals Examiner