

COMMONWEALTH OF VIRGINIA
VIRGINIA EMPLOYMENT COMMISSION



ABLE AND AVAILABLE - 475.03
Union Relations (General)

DECISION OF COMMISSION

In the Matter of

Frank D. Mangum, Claimant
████████████████████

A C & S, Inc.
Richmond, Virginia

Employer

Date of Appeal

To Commission: November 2, 1972

Date of Hearing: November 21, 1972

Decision No.: 5818-C

Date of Decision: December 1, 1972

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-72-2113) dated October 16, 1972.

ISSUE

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

FINDINGS OF FACT

The claimant appealed from the decision of the Appeals Examiner which declared him ineligible for benefits from September 3, 1972, through September 16, 1972.

The claimant has not applied to employers for work during the weeks in question, but sought employment through his local union's business agent. He contacted him two to three times weekly. The union has hiring agreements with 50% of the unions in the area, but those unions employ approximately 75% of the labor force in the claimant's line of work. In addition, the business agent attempts to find employment through other locals throughout the entire Mid-Atlantic Conference, which covers the area from New Jersey to Norfolk, Virginia. He has also found work for his members in other sections of the

country. The business agent also finds employment for his members in other crafts, such as iron work and sheetmetal work, for which they may be qualified.

Much of the claimant's employment is in construction work which comes under the provisions of the Davis-Bacon Act, which provides generally that on contracts involving federal funds, all wage rates are pre-determined by the United States Department of Labor. These are determined to be the prevailing wage rates. All members of the claimant's union will accept work at such rates.

As a result of the efforts of the business agent, the claimant located employment and commenced work on November 8, 1972.

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. Generally, to be considered available for work, among other things, a claimant must show that he is actively and earnestly looking for work, is ready and willing to accept all offers of suitable work, and does not place any undue restrictions upon his employability.

The Commission has said on numerous occasions that when a claimant places unreasonable restrictions upon his employability he does not meet the availability for work requirements of the Act. The evidence in this case clearly shows that by virtue of his contacts through the union hiring hall, the claimant is substantially exposed to the labor market. In view of his potential contacts with employers locally, as well as in other areas and in other trades, the Commission is of the opinion that the claimant has placed no undue restrictions upon his employability and has demonstrated a substantial attachment to the labor market.

DECISION

The decision of the Appeals Examiner is hereby reversed. It is held that the claimant has met the eligibility requirements of the Act from September 3, 1972 through September 16, 1972, the weeks before the Commission.



B. Redwood Councill
Assistant Commissioner