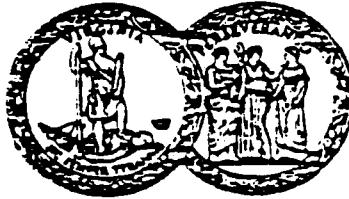


COMMONWEALTH OF VIRGINIA  
VIRGINIA EMPLOYMENT COMMISSION



MISCELLANEOUS - 95.1  
Construction of statutes  
Common meaning

DECISION OF COMMISSION

In the Matter of

Seth Pruden, Sr., Claimant  
[REDACTED]

Richmond City Jail  
Richmond, VA 23223

Date of Appeal

To Commission: October 25, 1979

Date of Review: March 4, 1980

Decision No.: 12986-C

Date of Decision: March 5, 1980

Place: Richmond, Virginia

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This matter comes before the Commission on appeal by the claimant from the decision of the Appeals Examiner (UI-79-7019), dated October 11, 1979.

ISSUE

Did the claimant's unemployment begin during the period between two successive academic years or during a similar period between two regular terms for which he had a contract or a reasonable assurance to perform services as provided in Section 60.1-52.3 (A) of the Code of Virginia (1950), as amended?

FINDINGS OF FACT AND OPINION

The claimant filed a claim for unemployment compensation effective August 19, 1979, establishing a base period of April 1, 1978 through March 31, 1979. His most recent thirty-day employer at that time was the Richmond City Jail, where he had worked from December 26, 1978 through March 7, 1979, when he was terminated due to unsatisfactory job performance. The claimant had no earnings in his base period which were based on service in an instructional capacity for an educational institution.

During April of 1979 the claimant took a job as a substitute teacher with the Richmond City School Board. He worked as needed for twenty-seven days through the spring term in 1979. Since he was still on the substitute teacher list in

the fall of 1979 the Claims Deputy and the Appeals Examiner held that the claimant would be ineligible by virtue of the between-term denial provision of the statute.

Section 60.1-52.3 provides in part:

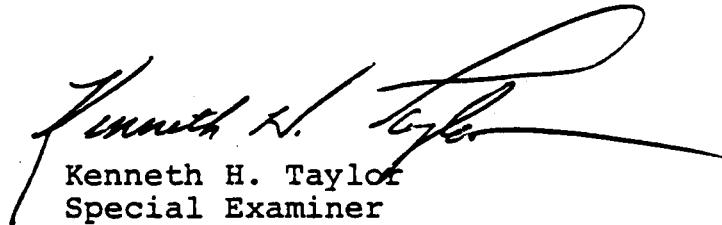
- A. Benefits based on service in an instructional, research, or principal administrative capacity for an educational institution shall not be paid to an individual for any week of unemployment commencing during the period between two successive academic years . . . if the individual performs such services in the first academic years or terms and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms. (Emphasis supplied).

The claimant in this case had no base period earnings in an instructional capacity for any educational institution. Accordingly, his benefits for the claim filed effective August 19, 1979 would not be based on service in an instructional capacity for an educational institution. Therefore, Section 60.1-52.3 would have absolutely no applicability to this claimant's claim for benefits. In reaching this decision the Commission need not address the issue of whether or not the claimant had a reasonable assurance of employment in the educational term beginning in the fall of 1979. (Underscoring supplied)

DECISION

The decision of the Appeals Examiner which held that the claimant was ineligible for benefits from August 19, 1979 through September 1, 1979 by virtue of the between-term denial provision is hereby reversed.

The Claims Deputy is directed to determine whether the claimant was meeting the other eligibility requirements of the Act during the weeks claimed.



Kenneth H. Taylor  
Special Examiner