

VIRGINIA EMPLOYMENT COMMISSION

DECISION OF COMMISSION

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Decision No. : 6074-C

Date: September 4, 1973

MISCONDUCT: 310.1
Neglect of duty - duties
not discharged

This is a matter before the Commission on appeal by the claimant from the decision of the Examiner (No. UI-73-1282) dated July 16, 1973.

ISSUES

Did the claimant voluntarily leave his last employment without good cause within the meaning of § 60.1-58 (a) of the Code of Virginia (1950), as amended?

Was the claimant discharged for misconduct in connection with his work within the meaning of § 60.1-58 (b) of the Code of Virginia (1950), as amended?

FINDINGS OF FACT

Pinkerton's Inc., Washington, D. C., was the claimant's last employer for whom he worked as an investigator from May 19, 1971, through January 5, 1973. As an investigator it was the claimant's responsibility to file daily reports with his employer.

The claimant, in his initial claim for benefits, certified that his separation was due to a labor dispute over wages/advancement and the quality of work and assignments. He later stated that he resigned because of his dissatisfaction with his work.

The Commission has been informed by the employer that the claimant was discharged due to a number of reports being late and the quality of his reports being poor. The employer also indicated that the claimant was counseled on numerous occasions concerning his work.

At the hearing before the Commission the claimant presented an exhibit from the employer's Employment Manager which indicates that separation was due to a discharge for late reports and poor reports, rather than a voluntary resignation, as was previously stated by the claimant.

OPINION

Since it is apparent that the separation was occasioned by the discharge of the claimant by the employer, it is obvious that there was no voluntary quit under § 60.1-58 (a).

Section 60.1-58 (b) provides a disqualification if it is found that a claimant was discharged for misconduct connected with work. The Commission has long limited the definition of misconduct to such conduct evincing a willful or wanton disregard of an employer's interest as is found in deliberate violations or disregards of standards of behavior which the employer has a right to expect of his employee, or in carelessness or negligence of such degree or recurrence as to manifest equal culpability, wrongful intent, or evil design, or to show an intentional and substantial disregard of the employer's interest or of the employee's duties and obligations to his employer. On the other hand, mere inefficiency, unsatisfactory conduct, failure in good performance as a result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

The employer has stated that the claimant had been late in filing his reports and that the quality of his reports had been poor. The poor quality of the reports alone would not show any misconduct on the part of the claimant as they might derive from his inability, incapacity or mere inefficiency. However, when coupled with the lateness in filing the reports, it tends to exhibit disregard of standards of behavior which the employer has a right to expect of his employee. The claimant knew that as an investigator he was to file his reports on a daily basis. Failure to do this after repeated warnings is even stronger indication of negligence of such recurrence as to manifest a disregard of the employer's interest.
(Underscoring supplied)

Accordingly, the Commission must conclude that the claimant was discharged for filing his reports late and the poor quality of his reports when filed. This conduct was in disregard of his employer's interest and was, therefore, misconduct.

DECISION

The decision of the Appeals Examiner which held the claimant disqualified for leaving work voluntarily without good cause is hereby reversed. It is held that the claimant is disqualified effective February 4, 1973, for having been discharged for misconduct connected with work. Such disqualification shall remain in effect for any week benefits are claimed until the claimant has performed services for an employer for thirty days, whether or not such days are consecutive.