

COMMONWEALTH OF VIRGINIA  
VIRGINIA EMPLOYMENT COMMISSION



MISCONDUCT: 485.6  
Violation of Company Rule  
— Money Matters, Regulation  
Governing.

DECISION OF COMMISSION

In the Matter of:

Vivian E. King  
[REDACTED]

Credit Control Corporation  
Virginia Beach, Virginia

Date of Appeal

to Commission: November 4, 1985

Date of Review: November 29, 1985

Place: RICHMOND, VIRGINIA

Decision No.: 26046-C

Date of Mailing: December 5, 1985

Final Date to File Appeal

with Circuit Court: December 25, 1985

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This is a matter before the Commission on appeal by the claimant from a Decision of Appeals Examiner (UI-85-7427), mailed October 15, 1985.

ISSUE

Was the claimant discharged for misconduct connected with her work as provided in Section 60.1-58 (b) of the Code of Virginia (1950), as amended?

FINDINGS OF FACT

On November 4, 1985, the claimant filed a timely appeal from a Decision of the Appeals Examiner which held that she was disqualified from receiving unemployment insurance benefits based upon the circumstances surrounding her separation from work.

Prior to filing her claim for benefits, the claimant was last employed by Credit Control Corporation of Virginia Beach, Virginia.

She worked for this employer from April 1, 1982, through July 15, 1985. The claimant worked as a bill collector and was paid a salary of \$925 per month, plus a commission on her collections.

In May of 1985, the claimant was advised by the employer that she had two outstanding debts which had been referred to the company for credit collection. The claimant was notified by her supervisor that she would need to make arrangements to pay these debts. One of the creditors involved was the second largest client of the employer. This particular client, a local hospital, had even contacted the employer and had expressed concern about the claimant collecting debts for the hospital while she, herself, was a delinquent debtor. The employer, in speaking with the claimant, advised her of the compromising position that this placed the company and encouraged her to make arrangements with the creditors to pay these accounts.

On or about July 7 and 8, 1985, the employer's office manager again spoke with the claimant concerning these debts. The claimant advised the employer that she had not paid the debts, and she was requested to review her budget and advise the company as to how she intended to pay these bills. The claimant did not advise the company of any such arrangements, and when the office manager spoke with her again, the claimant was told that she could pay half the bill on July 15 and the remainder at the end of the month when she would receive her two paychecks. The claimant understood that if she did not pay the debts or make arrangements to do so that her job was in jeopardy.

On July 15, 1985, the employer's office manager again spoke with the claimant concerning these debts. The claimant advised the office manager that she had not made arrangements to pay the debts and did not intend to pay them. The claimant was financially capable of paying the debt to the hospital; however, she refused to do so because she did not like the way the office manager had approached her concerning the matter. As a result of the claimant's refusal to either pay the debts or make arrangements for their payment, she was discharged on July 15, 1985.

#### OPINION

Section 60.1-58 (b) of the Code of Virginia provides a disqualification if the Commission finds that a claimant was discharged for misconduct connected with her work.

This particular language was first interpreted by the Virginia Supreme Court in the case of Vernon Branch, Jr. v. Virginia Employment Commission and Virginia Chemical Company, 219 Va. 609, 249 S.E. 2d 18 (1978). In that case, the court held:

"In our view, an employee is guilty of 'misconduct connected with his work' when he deliberately violates a company rule reasonably designed to protect the legitimate business interests of his employer, or when his acts or omissions are of such a nature or so recurrent as to manifest a willful disregard of those interests and the duties and obligations he owes his employer . . . Absent circumstances in mitigation of such conduct, the employee is 'disqualified for benefits', and the burden of proving mitigating circumstances rests upon the employee."

In the present case, the claimant was discharged by the employer after she refused to pay debts or make arrangements to pay debts owed to clients of the employer. Although the claimant's conduct did not violate any articulated rule of the employer, it was conduct which manifested a deliberate disregard of the employer's interests. In this case, one of the two creditors of the claimant was also one of the largest clients of the employer. This particular client had raised concerns about the situation where the claimant was collecting on their delinquent accounts, but yet not meeting her own obligations to the hospital. While, at first blush, the claimant's management of her personal financial affairs may not appear to be work related, under these facts it does bear a reasonable nexus to her employment. In the Branch case, the Supreme Court stated, in part, that:

"Ordinarily, the way an employee manages his debts is a personal and private matter unconnected with his work. It is a different matter, however, when he mismanages his debts in a manner which impairs the status or function of the employer-employee relationship to the employer's detriment." 219 Va. at 612.

Under these circumstances, the Commission is of the opinion that the claimant's willful failure to pay or make arrangements to pay these particular debts does constitute a deliberate disregard of the interests of the employer. Therefore, the disqualification for misconduct should be imposed unless the claimant can establish mitigating circumstances. The claimant testified before the Appeals Examiner that the reason she did not make arrangements to pay these debts, despite her financial ability to do so, was because she did not like the way her supervisor approached her concerning this matter. That is not the type of mitigating circumstance contemplated by the Supreme Court under the Branch doctrine. If the supervisor had

overstepped her authority or been rude to the claimant in some way, the claimant could have resolved that matter by complaining to her supervisor's superiors. (Underscoring supplied)

Therefore, for the reasons stated herein, the Commission is of the opinion that the claimant's conduct constituted a deliberate disregard of the employer's interests and was not excused by mitigating circumstances. Therefore, the disqualification provided in Section 60.1-58 (b) of the Code of Virginia should be imposed.

#### DECISION

The Decision of Appeals Examiner which disqualified the claimant from receiving unemployment insurance benefits effective July 28, 1985, for having been discharged for misconduct connected with her work is hereby affirmed.

*M. Coleman Walsh, Jr.*  
M. Coleman Walsh, Jr.  
Special Examiner