

COMMONWEALTH OF VIRGINIA
VIRGINIA EMPLOYMENT COMMISSION

PROCEDURE: 10.1
Timeliness of Appeals
-- Filing an Appeal.



DECISION OF COMMISSION

In the Matter of

Norman R. Hirsch, Claimant
[REDACTED]

Date of Appeal

To Commission: October 13, 1972

Date of Hearing: November 13, 1972

Decision No.: UCFE -172

Date of Decision: November 13, 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. UCFE -72-111) dated August 23, 1972.

ISSUE

Did the claimant file his appeal within the statutory time limit as provided by § 60.1-62, Code of Virginia (1950), as amended?

FINDINGS OF FACT

The Appeals Examiner rendered a decision dated August 23, 1972, which held that the claimant was disqualified effective June 4, 1972, for having left work voluntarily, without good cause. This decision was mailed to the claimant on September 13, 1972, and stated that the claimant had until September 23, 1972, in which to file an appeal to the Commission. This decision was mailed to the claimant's address in Fredericksburg, Virginia.

By letter dated September 13, 1972, postmarked September 14, 1972, and received September 19, 1972, by the Commission, the claimant advised that he received his Notice of Hearing after the date of the hearing as he was on an oceanographic cruise. He also furnished the Commission his new address in Florida. On September 22, 1972, the claimant was sent a copy of the Appeals Examiner's decision which showed the last day to file an appeal as September 23, 1972. The letter did not advise of any further appeal right. After a phone call to the Appeals Section, the claimant filed an appeal by letter postmarked October 13, 1972.

OPINION

Section 60.1-62, Code of Virginia (1950), as amended, provides that a claimant must file an appeal from the Appeals Examiner's decision within ten (10) days of the mailing of such decision. In view of the fact that well within the appeal period from the Appeals Examiner's decision, the Commission was on notice that the claimant had moved to a new address and did not send another copy of the decision until September 22, 1972, which did not advise him of any further appeal rights, the Commission is of the opinion that the claimant's appeal of October 13, 1972, should be accepted as timely filed. (Underscoring supplied)

DECISION

The claimant's appeal of October 13, 1972, is hereby accepted. It will be placed on the docket and set for hearing on the merits.


B. Redwood Council
Assistant Commissioner