

COMMONWEALTH OF VIRGINIA  
VIRGINIA EMPLOYMENT COMMISSION

PROCEDURE: 20.15  
Requests to Reopen a Hearing  
— Clerical/Administrative  
Errors as Good Cause.



DECISION OF COMMISSION

In the Matter of:

Wayne S. Daniels  
[REDACTED]

Department of Labor  
Washington, DC

INTERSTATE

Date of Appeal  
to Commission: August 16, 1985  
Date of Review: September 12, 1985  
Place: RICHMOND, VIRGINIA  
Decision No.: UCFE-1057  
Date of Mailing: September 18, 1985  
Final Date to File Appeal  
with Circuit Court: October 8, 1985

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This matter comes before the Commission on appeal by the claimant from the Decision of Appeals Examiner (UCFE-85-258), mailed August 9, 1985.

ISSUE

Has the claimant shown good cause for reopening the hearing in accordance with Regulation XI A.5 of the Rules and Regulations Affecting Unemployment Compensation?

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

FINDINGS OF FACT AND OPINION

The claimant had appealed from a determination of the Deputy which disqualified him for unemployment compensation for having left his employment voluntarily without good cause.

A Notice of Hearing to be held in connection with the claimant's appeal was mailed to all parties on July 24, 1985, stating that the hearing would be held via telephone on August 1, 1985, at 2:30 p.m. This notice was mailed to the claimant at 4240 Foote Street, NE, #1, Washington, DC 20019. This address was the claimant's last known address according to Commission records. The notice has not been returned by the United States Postal Service as undeliverable.

In his letter of appeal, the claimant is requesting a rescheduled hearing stating that when he called the Commission's office on August 2, 1985, to confirm the date of his hearing, he was told that the date had passed.

Regulation XI A.5 of the Rules and Regulations Affecting Unemployment Compensation issued by the Virginia Employment Commission provides, in pertinent part, that if the Commission is of the opinion that the written request establishes good cause for reopening it shall remand the case to the Chief Appeals Examiner. If the Commission is of the opinion that the written request has not set forth good cause for reopening, it shall treat the request as an appeal to the Commission on the merits of the case pursuant to Regulation XI B.

Since the notice of the telephonic hearing was not returned to the Commission by the United States Postal Service, there is a rebuttable presumption that the notice was received. When granting requests for reopening, the Commission has consistently held that the party requesting the reopening must show that he was prevented or prohibited from attending the hearing by some cause which was compelling or necessitous and beyond his control.

Apparently, the claimant in this case simply forgot the date and called a day after the hearing had been concluded to confirm the date set forth on the Notice of Hearing. To extend a finding of good cause to reopen a hearing before the appeals tribunal to a clerical or administrative error or oversight or negligence and inadvertance would extend the meaning beyond that contemplated by the interpretive language above. Therefore, the claimant's request to have this matter reopened must be denied. (Underscoring supplied)

Section 60.1-58 (a) of the Virginia Unemployment Compensation Act provides a disqualification if it is found that a claimant has left work voluntarily without good cause.

After having reviewed the entire record and the Decision of the Appeals Examiner, the Commission is of the opinion that the decision should be affirmed, and hereby sustains and affirms the same.

DECISION

It is held that the request to reopen this hearing before the Appeals Tribunal is hereby denied.

The Decision of the Appeals Examiner disqualifying the claimant for unemployment compensation effective March 24, 1985, is hereby affirmed.



Joseph L. Hayes  
Special Assistant  
Commission Appeals