

VIRGINIA EMPLOYMENT COMMISSION

DECISION OF COMMISSION

---o0o---

Decision No.: UCFE-99

SUITABLE WORK: 170.1

Date: February 23, 1968

Employment office or other
agency referral -
Direction to apply for work

This is a matter before the Commission on appeal by the claimant from the decision of the Examiner (No. UCFE-664-662) dated January 22, 1968.

ISSUES

- (1) Has the claimant been available for work during the week or weeks in which she claims benefits?
- (2) Did the claimant fail without good cause to apply for available, suitable work when so directed?

OPINION AND DECISION

This matter is before the Commission as an appeal by the claimant from a decision of the Appeals Examiner wherein the claimant was held ineligible for benefits from December 13, 1967 through January 9, 1968. The decision further imposed a disqualification upon the claimant in the event she should ever meet the eligibility requirements of the Act for failing to apply for available, suitable work.

The claimant filed her claim on November 29, 1967, served her waiting period week and was paid benefits for the week ending December 12, 1967.

Section 60-47 of the Code of Virginia reads in part as follows:

"An individual shall be disqualified for benefits, but only after having served a waiting period as provided in § 60-46:"

* * * *

"(c) If it is determined by the Commission that such individual has failed, without good cause, either to apply for available, suitable work when so directed by the employment office or the Commission or to accept suitable work when offered him, and the disqualification shall commence with the week in which such failure occurred, unless such failure occurred during the waiting period in which event the disqualification shall commence with the week following, and shall continue for the period of unemployment next ensuing until he

has performed services for an employing unit during thirty days, whether or not such days are consecutive."

Since the claimant has served her waiting period week, the question of her availability for benefits is not at issue. If it is determined that a disqualification should be imposed, it should commence with the week in which her failure to apply for suitable work occurred.

The claimant contends that no disqualification should be imposed since she was not given a referral slip nor told where the position was located; and was not, therefore, directed by the employment office to apply for work. This contention is without merit. During her interview at the local employment office, the claimant showed a total lack of interest in a job opening due to the salary. As a result, she was not offered the referral slip. This lack of interest was tantamount to a refusal of a referral and, therefore, the tender of a referral slip would have been useless. The Unemployment Compensation Act is silent on what constitutes a proper referral; however, it does not contemplate the Virginia Employment Commission performing a useless act. (Underscoring Supplied.)

Due to the claimant's long period of unemployment and her lack of prospects of obtaining work as a stenographer, the job opening, which was that of a clerk-typist was suitable. It was not detrimental to her health, safety or morals, and the salary was in line with the prevailing wage. The claimant has failed to show good cause for refusing to accept the referral.

The decision of the Examiner is affirmed and amended. The claimant is disqualified from the receipt of benefits effective December 13, 1967, for having failed without good cause to apply for available, suitable work when so directed by the employment office.

The above disqualification being imposed, the Examiner's decision relating to the claimant's eligibility is hereby set aside.