

UNEMPLOYMENT COMPENSATION COMMISSION OF VIRGINIA

DECISION OF APPEALS EXAMINER

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Decision No: S-4215-4129

SUITABLE WORK - 500.35

Date: April 17, 1956

Wages: Former rate,  
comparison with

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POINTS AT ISSUE

- (1) Has the claimant been available for work during the week or weeks for which she claims benefits?
- (2) Did the claimant voluntarily quit her employment without good cause?
- (3) Did the claimant fail without good cause to accept available, suitable work when offered?

FINDINGS OF FACT

The claimant appealed from a decision of the Claims Deputy which declared her ineligible for unemployment compensation as of February 14, 1956.

With the exception of a period of four or five months when she was on a Leave of Absence due to pregnancy, the claimant had been employed by Craddock-Terry Shoe Corporation from July 6, 1947, through November 4, 1955. At the time of her separation she was working as a general clerk in the Advertising Office and was being paid at the rate of \$35.00 per week. Her hours of work were from 8 A. M. to 5 P. M., Monday through Friday. The claimant's home is at Gladstone, Virginia, which is approximately 30 miles from Lynchburg, and during the week she left her 12-year old son in Gladstone to be cared for by her aunt. The claimant came to Lynchburg on Monday morning with another individual who was employed by the Telephone Company. She spent the week at a residence in Madison Heights, a suburb of Lynchburg, returning to Gladstone on Friday evening. During the two months immediately prior to her separation, the claimant had been absent on several occasions and for as much as two weeks; however, she had always returned to her work and had, in most instances, sent word to the employer that she would not be able to come in. She had never been told that a continuation of this would result in her dismissal. During the week-end following the last day of her employment, the claimant's aunt, who took care of the child, became ill and it was necessary for her to go to the hospital. Since the claimant lived outside of Gladstone, she was unable to find someone to care for her child. She sent word to the employer by the individual she rode into Lynchburg with and was informed by this individual that the message had been delivered. When she failed to report in, according to the Company's requirement, she was dismissed for failure to report to work; however, the Separation Slip from her Supervisor recommended that she be rehired if she could work regularly.

The claimant filed a Claim for Benefits on February 14, 1956, and at that time had made arrangements for the care of her child, should she secure employment. On March 21, 1956, she was interviewed by the Deputy and questioned as to her efforts to find work. She stated that she had been relying entirely upon the Employment Service to find work for her. Subsequent to the interview with the Deputy and prior to the

hearing on her appeal, her efforts to find employment were during a 2-day period in which she contacted the Telephone Company and three stores. At the same time, March 28, 1956, she was referred by the Virginia State Employment Service to work at F. W. Woolworth Company as a salesclerk. She went to see the employer and was informed that the job would pay \$30.00 per week and she was to report to work the following morning. She told the employer that she had not come to Lynchburg prepared to work and was given the opportunity of coming in the following Monday morning. She failed to do this nor did she notify the prospective employer that she was not going to report. At the hearing on the appeal, the claimant testified that the rate of pay, \$30.00 per week, was not sufficient to meet her living expenses and she did not feel that she could accept any employment paying less than \$35.00 per week.

#### OPINION

Section 60-46 (c) of the Virginia Unemployment Compensation Act provides in part that, in order to be eligible for benefits, a claimant must be available for work. Generally, to be considered available for work, among other things a claimant must show that she is actively and earnestly searching for suitable work and is ready and willing to accept employment without attaching undue restrictions to her employability.

The fact that this claimant made only limited efforts to find employment, four contacts within a 2-day period, and the fact that she refused to accept suitable employment during that same 2-day period, clearly indicate to the Examiner that she has not been doing those things which could reasonably be expected of an unemployed person who is earnestly and diligently seeking work. Although the Examiner is aware that the claimant lives at Gladstone, approximately 30 miles from Lynchburg, according to her own testimony she has been in Lynchburg at least one day per week since the filing of her Claim and would have had ample opportunity to have made an extensive search for work. She has also placed a minimum wage acceptable to her, which would preclude the possibility of her obtaining employment at two of the establishments she did apply to and would otherwise greatly limit her availability. Under these conditions, it is the opinion of the Examiner that the claimant has not met the eligibility requirements of the Act.

Section 60-47 (a) of the Virginia Unemployment Compensation Act provides a disqualification of five weeks and potential benefits reduced accordingly, if it is found that an individual voluntarily quit her work without good cause.

Good cause is not defined by Law but is subject to definitions and interpretations in decisions that have been handed down by the Commissioner for the Unemployment Compensation Commission of Virginia. It has been held generally that a person may have good cause for leaving her work if she finds that the job she is performing is against her health or safety or working conditions become so unbearable that she is forced to leave. If the cause is purely personal, it must be supported by a sound legal premise.

The records in the instant case clearly indicate that the claimant was unable to report to her work because her aunt, who cared for her child during the week while the claimant resided in Lynchburg, became ill

over the week-end and the claimant could not find anyone else to care for the child. Since she notified the employer in accordance with his requirements and since it has previously been held that leaving employment for such reasons constitutes good cause, the Examiner is holding that the claimant would not be subject to a disqualification for having been separated from her last employment.

Section 60-47 (c) of the Virginia Unemployment Compensation Act provides a disqualification ranging from a minimum period of six weeks to a maximum period of nine weeks and the total amount of potential benefits reduced accordingly, if it is found that an individual failed without good cause to apply for available, suitable work to which she has been referred by the Virginia State Employment Service or to accept suitable work when offered.

In considering the claimant's previous work experience and her expectations of finding employment, it is the opinion of the Examiner that the job offered her by F. W. Woolworth Company on March 28, 1956, was suitable employment and the claimant's reason for refusing it does not constitute good cause within the meaning of that term as used in the Virginia Unemployment Compensation Act. While the pay offered was not as much as the claimant had previously earned, it still was within the prevailing scale for that type of work in the community. In addition, the claimant would have had an opportunity for advancement, which is the means she employed in reaching the salary she was making at the time of her separation. The claimant, therefore, is subject to a disqualification for failing to accept suitable work when so offered. (Underscoring supplied)

#### DECISION

The decision of the Deputy is hereby affirmed. It is held that the claimant has not met the eligibility requirements of the Act from February 14, 1956, through April 4, 1956, the date of the hearing before the Examiner.

It is also held that, in the event the claimant should ever meet the eligibility requirements of the Act and there has been no intervening employment within the meaning of that term as used in the Act, she shall be disqualified for six weeks and the total amount of potential benefits reduced by six times the weekly benefit amount for failing to accept available, suitable work when offered.

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Decision affirmed by the Commissioner for the Unemployment Compensation Commission of Virginia, in Decision No. 3001-C, dated May 11, 1956.