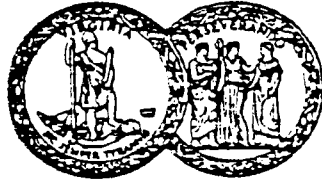


COMMONWEALTH OF VIRGINIA  
VIRGINIA EMPLOYMENT COMMISSION



VOLUNTARY LEAVING - 135.2  
DISCHARGE OR LEAVING -  
INTERPRETATION OF REMARK OR  
ACTION OF EMPLOYER OR EMPLOYEE

DECISION OF COMMISSION

In the Matter of

Dianna L. Close, Claimant  
[REDACTED]

Guardian Care of Great Bridge  
Chesapeake, Virginia

Employer

Date of Appeal

To Commission: June 1, 1978

Date of Hearing: November 28, 1978

Decision No.: 11278-C

Date of Decision: November 30, 1978

Place: Richmond, Virginia

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This is a matter before the Commission on appeal by the claimant from the decision of the Appeals Examiner (No. UI-78-3391), dated May 22, 1978.

ISSUE

Did the claimant voluntarily leave her last employment 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 appealed from a decision of the Appeals Examiner which disqualified her for benefits effective April 2, 1978, for having left work voluntarily without good cause. Guardian Care of Great Bridge was the claimant's last employer, where she had worked in the employer's Great Bridge facility from November 1, 1974, through March 29, 1978. Since November, 1977, the claimant had been employed as an administrator in training. Problems had developed in the administration of the facility, and the claimant had been counselled regarding her failure to perform her job as it was expected of her. On March 16, 1978, she talked to the district manager, who is located in North Carolina, by telephone concerning some of the problems. In the conversation, the claimant offered to resign if the district manager felt she was part of the problem. The manager, who was relatively new in his position, felt it was not wise or fair to the claimant or the employer to resolve the situation at that time. He investigated the situation to include making an effort to determine if a position elsewhere in the company was available in which the claimant could be placed. When none was found, on March 29, 1978, he gave the claimant a month's pay and told her that her offer to resign was being accepted. The claimant was surprised at the finality of the employer's action without discussion with her, but accepted it without argument.

Section 60.1-58(a) of the Virginia Unemployment Compensation Act provides a disqualification if it is found a claimant left work voluntarily without good cause. To disqualify a claimant under this provision of the Act requires that the leaving must have been totally voluntary. Although the claimant in this case indicated to her employer that she was willing to leave if it was felt she was the cause of problems, she did not formally resign from her job. Although the claimant did not protest the employer's action of March 29, 1978, in giving her a one month's severance pay and advising that her resignation was accepted, the employer had initiated that final action without determining the claimant's wishes in the matter. It is concluded that the claimant did not voluntarily leave her last employment, but was separated therefrom by the employer for reasons which would not be disqualifying under the provisions of the Act.

DECISION

The decision of the Appeals Examiner disqualifying the claimant for benefits for having left work voluntarily without good cause is hereby reversed.

The Deputy is instructed to determine whether or not the claimant was meeting the eligibility requirements of the Act during any weeks for which benefits have been claimed.

  
Eugene Pitts  
Special Examiner