

COMMONWEALTH OF VIRGINIA  
VIRGINIA EMPLOYMENT COMMISSION

VOLUNTARY LEAVING: 150.15  
Distance from Work  
Removal from Locality



DECISION OF COMMISSION

In the Matter of:

Edward Barnes  
[REDACTED]

Prospect Enterprises  
Sterling, Virginia  
(Thirty-Day Employing Unit)

Unircof Company  
Silver Spring, Maryland  
(Subsequent Employing Unit)

Interstate

Date of Appeal

to Commission: February 26, 1986

Date of Review: March 28, 1986

Place: RICHMOND, VIRGINIA

Decision No.: 26759-C

Date of Mailing: March 31, 1986

Final Date to File Appeal

with Circuit Court: April 20, 1986

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This is a matter before the Commission on appeal by the claimant from the Decision of Appeals Examiner (UI-86-1138), mailed February 21, 1986.

ISSUE

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

FINDINGS OF FACT

The Findings of Fact of the Appeals Examiner are hereby adopted by the Commission with the following addition.

At the time the claimant moved to Laurel, Maryland, he had not investigated whether there was public transportation from his new residence to his employer's business. The findings of fact are as follows:

The claimant filed a timely appeal from a determination of the Deputy which held him disqualified for benefits effective December 1, 1985.

Prospect Enterprises was the claimant's last thirty-day employing unit for whom he worked from March of 1984, through October of 1985.

Uniroof Company, Silver Spring, Maryland, was the claimant's subsequent employing unit for whom he worked from November 1, through November 26, 1985. The claimant was employed as a mechanic, at \$7.50 per hour.

On November 20, 1985, the claimant was involved in an automobile accident which damaged his car and, therefore, he could not use this means of transportation. Since the claimant lived near the employer's place of business, he was able to take public transportation to get to work.

During the last week of November 1985, the claimant was informed that there was another apartment available for him and his sister to move to, which they wanted to do. As a result of their moving to this new location, which was approximately 25 miles away from the employer's place of business, the claimant was not able to use public transportation to get to and from work and since he did not have any other means of getting to and from work, he had to relinquish his employment.

#### OPINION

Section 60.1-58 (a) of the Code of Virginia provides a disqualification if the Commission finds that the claimant left work voluntarily without good cause.

In construing the meaning of the phrase "good cause", the Commission has consistently held that an individual leaves work voluntarily without good cause unless the reason for leaving is based upon some legal premise or is of such a compelling and necessitous nature as would leave him no other reasonable alternative other than quitting his job. In such cases, the burden of proof is upon the claimant to demonstrate that he did have good cause for leaving work.

In this case, the claimant has first contended that he did not quit his job since he spoke with a supervisor and the company was willing to take him back once he resolved his transportation problems. However, the willingness of an employer to rehire an employee does not negate the fact that the claimant did leave his job. The claimant had transportation difficulties, was unable to

get to work from his new residence, and put his employer on notice of these facts so he would not be discharged. Accordingly, the Commission must conclude that the claimant did leave his job voluntarily.

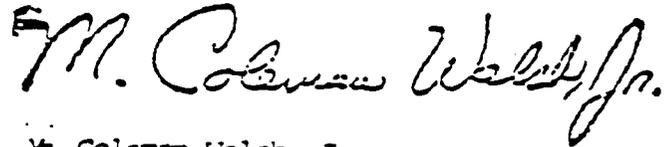
The claimant left his job voluntarily as a result of his transportation difficulties. The record establishes that the claimant's automobile was damaged in an accident and was not operable. However, the claimant was able to continue to go to work using public transportation until he elected to move to Laurel, Maryland. From his new residence, the claimant was twenty-five miles from the employer's place of business and he discovered that there was no public transportation from Laurel, Maryland, to the employer.

In the case of Garland David King v. Logan-McPeak, Incorporated, Decision No. 5058-C, April 14, 1970, the Commission held that a claimant had good cause to refuse a job transfer due to transportation problems where the employer relocated its business to another town. Similarly, the Commission held that a claimant had good cause to leave work where the employer relocated its business to another area which resulted in an additional twenty miles of travel for the claimant and the claimant, after pursuing every reasonable alternative, could not arrange transportation. (See, Shirley M. Myers v. Bramwell Manufacturing Company, Decision No. 6216-C, dated March 11, 1974) However, in this case, it was the claimant who chose to relocate and thus created the ultimate transportation difficulty, which prompted his decision to quit work. Even after he lost his personal transportation, the claimant was able to avail himself of public transportation and continued working until he left the area. When this is considered in conjunction with the claimant's failure to investigate the availability of public transportation from Laurel, Maryland, prior to leaving, the Commission cannot find that the claimant exhausted every reasonable alternative available to him prior to quitting. Had the claimant investigated the situation and discovered that public transportation was not available, he may have been able to continue living at his former residence and working for the employer until such time as he was able to repair or replace his automobile. (Underscoring supplied)

Therefore, for the reasons set forth herein, the Commission is of the opinion that the claimant left work voluntarily for reasons which do not constitute good cause and the disqualification provided in Section 60.1-53 (a) of the Code of Virginia should be imposed.

DECISION

The Decision of Appeals Examiner which disqualified the claimant from receiving benefits effective December 1, 1985, for having left work voluntarily without good cause is hereby affirmed.



M. Coleman Walsh, Jr.  
Special Examiner