

VIRGINIA EMPLOYMENT COMMISSION

DECISION OF COMMISSION

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Decision No.: 6216-C

Date: March 11, 1974

VOLUNTARY LEAVING: 150.2  
Distance to Work - Transportation  
and Travel.

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This is a matter before the Commission on appeal by the claimant from the decision of the Examiner (No. UI-74-22) dated January 23, 1974.

ISSUES

Did the claimant voluntarily leave her last employment without good cause within the meaning of § 60.1-58 (a) of the Code of Virginia (1950), as amended?

Was the claimant available for work within the meaning of § 60.1-52 (g) of the Code of Virginia (1950), as amended?

FINDINGS OF FACT AND OPINION

Bramwell Manufacturing Company, Bramwell, West Virginia, was the claimant's last employer for whom she worked as a sewing machine operator from March 1, 1973, through October 28, 1973.

The claimant stated that when she worked she would walk one half mile to catch a ride to Bramwell where her employer was located. On or about October 28, 1973, her employer ceased operations in Bramwell and moved its location to Princeton, West Virginia. This was a move of approximately 20 miles.

The claimant was offered work by this employer at the Princeton location. She stated that had she been able to obtain a ride, she would have accepted this offer of employment; however, she could not obtain a ride and since she did not drive she was precluded from accepting such offer.

The claimant filed her claim effective November 4, 1973. During the week ending November 10, 1973, the claimant contacted but one prospective employer. She contacted two employers during the weeks ending November 17, 1973, and November 24, 1973. Three job contacts were made by the claimant during the weeks ending December 1, 1973, December 8, 1973, December 22, 1973, December 29, 1973, January 5, 1974 and

January 12, 1974. The claimant contacted four prospective employers during the week ending December 15, 1973. The job contacts have been in her home town of Pocahontas, Virginia, and also in Bluefield, West Virginia. The claimant has stated that she could arrange for transportation to Bluefield, West Virginia, if she found employment there.

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

In Garland David King v. Logan-McPeak, Incorporated, Commission Decision No. 5058-C (April 14, 1970), affirming Appeals Examiner's Decision No. UI-69-1594 (February 24, 1970), the Commission held that under similar factual situations the claimant's refusal to accept a job transfer due to transportation problems was with good cause where the employer had relocated in another town. In that case, as in this one, the claimant desired to continue his employment with his last employer. He made every effort to locate a ride; however, he did not have personal transportation and did not drive, but he resided in a labor market area where work was available. (Underscoring supplied)

In the aforementioned decision, the relocation of the employer's business meant an additional nine miles of travel to the claimant. In the present case, the relocation of the employer's business means an additional 20 miles of travel to the claimant. To disqualify the claimant under these conditions the Commission would reach a harsh and inequitable decision. It is felt by the Commission that the claimant had pursued every reasonable alternative to maintain her employment with her last employer. However, due to circumstances beyond her control, she could not obtain transportation. In the opinion of the Commission, she did not voluntarily leave her last employment but rather was involuntarily terminated by reason of the employer relocating in another town. (Underscoring supplied)

Section 60.1-52 (g) of the Code of Virginia states that among other things, to be eligible for benefits a claimant must be available for work. The Commission has consistently interpreted this section to mean that the claimant must demonstrate an active and earnest search for work in a labor market where work is available.

During the week ending November 10, 1973, the claimant contacted but one prospective employer. In no way can this be interpreted to be an active search for work. However, for the period from November 11, 1973, through January 12, 1974, the claimant has made a diligent search for work. She has also indicated that should she find employment in Bluefield, West Virginia, that she could arrange transportation to and from such employment. Since the claimant lives in an area where there is employment and she has actively sought work for the period from November 11, 1973, through January 12, 1974, it is the opinion of the Commission that the claimant has met the availability requirements of the Act.

DECISION

The decision of the Appeals Examiner disqualifying the claimant for leaving work voluntarily without good cause is hereby reversed. It is held that the claimant has failed to meet the eligibility requirements of the Act for the weekending November 10, 1973. It is further held that the claimant has met the eligibility requirements of the Act for the period from November 11, 1973, through January 12, 1974.