COMMONWEALTH OF VIRGINIA
VIRGINIA EMPLOYMENT COMMISSION

VOLUNTARY LEAVING - 155.1
DOMESTIC CIRCUMSTANCES
CHILDREN, CARE OF

DECISION OF COMMISSION

In the Matter of

Inell Mincey
[redacted]

The Hertz Corporation
Alexandria, VA 22314

Employer

Date of Appeal
To Commission: February 18, 1980

Date of Review: May 13, 1980

Decision No.: 13571-C

Date of Decision: May 16, 1980

Place: Richmond, Virginia

This is a matter before the Commission on appeal by the claimant from the Decision of the Appeals Examiner (No. UI-80-428), dated February 5, 1980.

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 the Decision of the Appeals Examiner which disqualified her for benefits effective December 9, 1979, for having left work voluntarily without good cause.

The Hertz Corporation was the claimant's last employer where she had worked as a licensing and title clerk from July 2, 1976, until November 22, 1979. The claimant whose second child was born in July, 1979, found that she could not locate a babysitter for her children. Shortly after returning to work after her maternity leave, her full-time babysitter had resigned. The claimant requested part-time work or additional leave in order to locate adequate child care. The claimant's supervisor had advised that part-time work was not available and could not grant the leave request because of the heavy workload. The claimant then talked to the manager who also denied the claimant's request advising that it would be better if she put in her resignation. On November 13, 1979, the claimant signed a letter of resignation which reads:

"Due to the fact that I do not and cannot at this time obtain a full-time babysitter, and since there are not part-time positions nor extended leave available to me, I find no other recourse than to turn in my resignation effective November 22, 1979."

There is nothing in the record to show who cared for the children while the claimant worked out her notice; but, the claimant did feel that it was necessary to find a good babysitter since her two children suffer from the disease of Sickle-Cell Anemia, and therefore require proper rest, naps, and certain fluids during the day as well as periodic visits to the doctor.

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.

It has been repeatedly held in past decisions that when the reason for leaving employment is personal it must be supported by some legal premise or else the reason for leaving must have been so necessitous or compelling that the individual had no choice but to leave.

The claimant certainly was responsible for the proper care of her children but this does not necessarily mean that she must personally provide the care. She has testified however that there were no relatives or other individuals in the area upon whom she could depend to watch the children while she worked.

While the record is devoid of information concerning child care while the claimant worked a ten day notice, there also is no information in the record or any reason to conclude that she did not make reasonable efforts to locate adequate care for the children during that period.

In view of the above, it is concluded that the claimant was faced with the pressure of real, substantial, and necessary family obligations which compelled the decision to leave her employment. Her leaving therefore, although personal, was with good cause as that term is used in 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 able to work and availability for work requirements of the Act during any weeks for which she has claimed benefits.

Eugene Pitts
Special Examiner