

COMMONWEALTH OF VIRGINIA  
VIRGINIA EMPLOYMENT COMMISSION

VOLUNTARY LEAVING: 155.1  
Domestic Circumstances --  
Children, Care of.



DECISION OF COMMISSION

In the Matter of

Hilton Dix

Intersate - Arizona

Dan River Mills, Inc.  
Danville, VA 24541

Employer

Date of Appeal

To Commission:

October 26, 1983

Date of Hearing:

January 9, 1984

Place: RICHMOND, VIRGINIA

Decision No.:

22450-C

Date of Decision:

January 9, 1984

Date of Mailing:

January 9, 1984

Final Date to File Appeal

with Circuit Court:

January 29, 1984

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This is a matter on appeal to the Commission by the claimant from a Decision of the Appeals Examiner (No. UI-83-9545), mailed October 17, 1983.

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?

APPEARANCES

None

FINDINGS OF FACT

The Findings of Fact of the Appeals Examiner are adopted by the Commission with the following addition. These findings are as follows:

"The claimant appealed from a determination of the Deputy which disqualified him from benefits effective August 7, 1983, for having separated from his last employment.

Dan River Mills, Incorporated, Danville, Virginia, was the claimant's last employer for whom he worked from May 22, 1978, through July 27, 1983. The claimant was employed as a weaver and, at the time of separation, he was being paid \$5.48 an hour.

Approximately two to three weeks prior to July 27, 1983, the claimant gave notification to his employer that he was leaving his employment to relocate to another area due to family health problems. The claimant chose to relocate to another area because his children suffered from asthma, bronchitis and allergy problems. The claimant had no recommendation in writing from a physician at the time he chose to leave his employer in Virginia, but he subsequently submitted written documentation from a physician in the state of Arizona which was signed and dated in August 1983, advising that he relocated due to his family health problems. The claimant had no new offer of employment at the time he chose to leave his last thirty day employer."

Medical evidence submitted by the claimant to the Commission from the family physician in Danville, Virginia notes that it was necessary for the claimant's children to change residence because of the severity of the asthmatic condition. The claimant's children had been under the care of the physician in Danville, Virginia from 1979 until 1983 when the claimant was advised they should relocate to a drier climate because of their health.

#### OPINION

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.

The Commission in discussing "good cause" in Elsie P. Phillips v. Dan River Mills, Inc., Decision No. 2002-C, dated June 15, 1955 had this to say:

"Therefore, where the pressure of real, not imaginary, substantial, not trifling, reasonable not whimsical circumstances compel the decision to leave employment, the worker leaves voluntarily but with good cause. The pressures of necessity of legal duty or family obligation or other compelling circumstances, and the worker's capitulation to them will not penalize his right to benefits if he once again reenters the labor market."

In the case now before the Commission as in Phillips, the health and welfare of the claimant's family members necessitated him leaving his job. The medical evidence in the record clearly shows that the claimant was advised to move his two children to a drier climate and the claimant chose Arizona in order that their asthmatic condition may improve. (Underscoring supplied)

It is, therefore, concluded that the claimant left work voluntarily but with good cause within the meaning of that term as used in the Act.

#### DECISION

The decision of the Appeals Examiner is hereby reversed. It is held that there should be no disqualification imposed in connection with the claimant's separation from work effective August 7, 1983.

The Deputy is directed to carefully review the claimant's continued claim for benefits and determine whether or not he has met the eligibility requirements of the Act during the weeks for which he claimed benefits.

*Edwin R. Richards,*  
Edwin R. Richards *SR*  
Special Examiner