

COMMONWEALTH OF VIRGINIA
VIRGINIA EMPLOYMENT COMMISSION



VOLUNTARY LEAVING: 155.35
Illness of others

DECISION OF COMMISSION

In the Matter of

Patricia A. Riddle, Claimant
Interstate - Arizona

Alexandria Public Schools
Alexandria, Virginia

Employer

Date of Appeal

To Commission: March 14, 1977

Date of Hearing: May 10, 1977

Decision No.: SUA-194

Date of Decision: May 20, 1977

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. SUA-77-139), dated February 28, 1977.

ISSUE

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

FINDINGS OF FACT AND OPINION

Alexandria Public Schools was the claimant's last employer for which she had worked as a substitute teacher from May 12, 1975, through April 23, 1976. The claimant had testified before the Appeals Examiner that although she was a substitute, she was teaching for the Alexandria Public School System every day, for which she was being paid \$ 30.00 per day.

The claimant, who is thirty-seven years of age, had been living with her parents in the Alexandria area approximately two years prior to her separation, since her mother had suffered from cancer. The claimant's father, who is a retired individual, sixty years of age, was advised by his physician to move to a warmer climate because of his severe sinus condition, and the family decided to move to Arizona. The claimant's mother had injured her foot just prior to the claimant's separation, and the claimant felt it was necessary for her to resign her job effective April 23, 1976, so that she could assist her parents

in their move across the country to Arizona. There is no medical evidence in the record that the claimant's parents required constant care, but the claimant felt that it would be in her parents best interest for her to accompany them and continue living with them. Had she continued in her employment in Virginia, she would have had substitute duties through June 17, 1976, as well as such duties the following school term.

Section 60.1-58 (a) of the Virginia Unemployment Compensation Act provides a disqualification if it is found that an individual has left work voluntarily without good cause. The Code of Virginia once provided a disqualification if a claimant was "unemployed because he left work voluntarily without good cause involving fault on the part of the employer."¹ In Elsie P. Phillips v. Dan River Mills, Inc., Commission Decision No. 2002-C, June 15, 1955, the Commission pointed out that the disqualification provision for voluntary leaving was:

"Subsequently . . . amended so as to delete the underscored language. Since this amendment the Commission has consistently recognized purely personal reasons, where such reasons are of a compelling nature, as constituting 'good cause' for voluntarily leaving work."

The Commission went on to say that the rule most commonly accepted by administrative tribunals construing statutes similar to [§ 60.1-58(a)] has been that a reason which would cause a reasonable person, desirous of retaining his employment, to relinquish his job would constitute "good cause." The Appeals Examiner's decision which stated that good cause "must necessarily be related to or, rise out of, such employment," reflects an interpretation of the statutory provision which has long since been amended. Accordingly, the Commission expressly overrules that interpretation.

In the Phillips case, the Commission held that the claimant left her employment voluntarily with good cause to accompany her parents, who were eighty and eighty-eight years old respectively, and practically blind, where the family physician recommended that her services and presence in their home was essential. The Commission stated:

" . . . 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."

Since that decision was rendered, the Commission has stated, however, that in order for a personal reason to constitute good cause, it must bear the test of reason. It has been consistently held that the reason must be so compelling or necessitous that the individual had no reasonable alternative to resignation. In the present case, the claimant'

¹ § 5. (a), Virginia Unemployment Compensation Act, as amended 1944.

desire to assist her parents in relocating to Arizona was quite understandable and commendable. However, this case is clearly distinguishable from the Phillips case as the claimant in that case had been advised by her family's physician to accompany her parents and continue to live with them as they needed constant care. There is no evidence in the record of this case that the claimant's continued presence was required, and it would appear that a reasonable alternative to resignation would have been to request a reasonable time off in order to assist her parents in making the trip to Arizona. It is concluded, therefore, that the claimant's circumstances were not so compelling or necessitous that she was left with no reasonable alternative to resignation. Accordingly, she has failed to demonstrate that her leaving rose to the level of "good cause" within the meaning of that term as used in the Act.

DECISION

The decision of the Appeals Examiner disqualifying the claimant for benefits effective May 16, 1976, for having left work voluntarily without good cause is hereby affirmed.


Kenneth H. Taylor
Assistant Director of Appeals