

COMMONWEALTH OF VIRGINIA
VIRGINIA EMPLOYMENT COMMISSION

VOLUNTARY LEAVING - 155.05
DOMESTIC CIRCUMSTANCES-GENERAL



DECISION OF COMMISSION

In the Matter of

Patrick M. Kinard
[REDACTED]

Pine Trees Inn
2392 Virginia Beach Blvd.
Virginia Beach, Virginia

Date of Appeal

To Commission: May 3, 1979

Date of Review: July 12, 1979

Decision No.: UCX 139

Date of Decision: July 20, 1979

Place: Richmond, Virginia

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This is a matter before the Commission on appeal by the claimant from the Decision of Appeals Examiner (No. UCX-79-34), dated April 25, 1979.

ISSUE

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

FINDINGS OF FACT AND OPINION

Pine Trees Inn, was the claimant's last employer for whom he worked from November 1978 through January 12, 1979. He performed dish washing and stock work for this employer. He left this job to go to Florida because he was living with his parents in Virginia and he was only making minimum wages and could not afford to work at that job and live on his own. His father had retired from the United States Navy after thirty years service and decided to establish permanent residence in Florida. The claimant had previously been on active military service from April 3, 1977, to February 17, 1978.

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

In numerous cases the Commission has stated that a compelling personal reason is such a reason, which leaves a person no reasonable alternative but to adopt a particular course of action. When elaborating, the Commission has often stated that the pressure of necessity or legal duty or family obligation or other overpowering circumstances and a claimant's capitulation to them transform what is ostensibly voluntary unemployment into involuntary

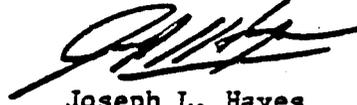
unemployment. (See Bliley Electrical Company vs Board of Review, in re: Sturdevant, 158 PA. Super. 548, 45 A(2d) 898, 1946)

There is no question in this case before the Commission that the claimant is emancipated and he has shown no other legal duty to reside with his parents. In addition, he has apparently no unusual family obligations and simply found it most expedient to move and reside with them in Florida. Although, the claimant's decision is understandable and was undoubtedly the most expedient course of action for him to follow, such a reason is insufficient to meet the compelling and necessitous standard necessary to be deemed "good cause" within the meaning of that term as used in the Virginia Unemployment Compensation Act.

The Commission is, therefore, of the opinion that the Decision of Appeals Examiner should be affirmed.

DECISION

The Decision of the Appeals Examiner is hereby affirmed.



Joseph L. Hayes
Special Examiner