

COMMONWEALTH OF VIRGINIA  
VIRGINIA EMPLOYMENT COMMISSION



VOLUNTARY LEAVING: 190.15  
Evidence-  
Weight and sufficiency.

**DECISION OF COMMISSION**

In the Matter of

Judy Carol Hodges, Claimant  
[REDACTED]

Cooper Wood Products, Inc.  
Rocky Mount, Virginia

Employer

Date of Appeal

To Commission: February 5, 1975

Date of Hearing: April 15, 1975

Decision No.: 6718-C

Date of Decision: April 16, 1975

Place: Richmond, Virginia

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This is a matter before the Commission on appeal by the claimant from the decision of the Examiner (No. UI-75-24), dated January 17, 1975.

ISSUE

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?

FINDINGS OF FACT AND OPINION

The findings of fact of the Appeals Examiner are adopted by the Commission. The employer representative who testified at the Appeals Examiner's hearing was not the claimant's foreman, but rather another employee. Evidence presented by this employer representative concerning the foreman's discussion with the claimant was purely hearsay.

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.

Evidence reveals that the claimant upon returning to work found that her card had been pulled. Testimony also shows that this had been the usual method of discharging employees in the past. The claimant became upset and began to cry

upon learning that her card had been pulled. She then left her place of employment and went home. Upon arriving home she telephoned her employer and spoke to her foreman. Her foreman failed to advise her why her card had been pulled and eventually hung up on her.

In view of the evidence that the usual manner of discharging employees was to pull their card, it is understandable that the claimant became upset and left upon learning that her card had been pulled. Her actions in returning home under these conditions would, at most, amount to a mistake in judgment. It is evident that the claimant did not intend to quit her work, but returned home only because of her emotional condition. Her actions in calling her foreman in order to find out why her card was pulled would substantiate the fact that she did not leave work with the intent to abandon her job.

Furthermore, in view of the fact that the claimant has testified under oath that her foreman did not tell her that he wanted to discuss her absences with her on her last day of employment and the employer representative presented only hearsay testimony as to that allegation, the claimant's testimony must be considered superior on that point.

The Commission is of the opinion that the claimant did not intend to abandon her job at the time she left her place of employment. The Commission is further of the opinion that her foreman's statements to her at the time of her telephone call were tantamount to a discharge. Since the claimant's leaving was without intent to abandon her job, no disqualification should be imposed under § 60.1-58 (a) of the Act. Also, no disqualification will lie for misconduct since the claimant's actions were, at most, a mistake in judgment.

### DECISION

The decision of the Appeals Examiner disqualifying the claimant effective September 1, 1974, for having left work voluntarily without good cause is hereby reversed. The deputy is directed to determine the eligibility of the claimant for the weeks benefits are claimed.



B. Redwood Council  
Assistant Commissioner