

COMMONWEALTH OF VIRGINIA
VIRGINIA EMPLOYMENT COMMISSION



VOLUNTARY LEAVING - 235.45
HEALTH OR PHYSICAL CONDITION
RISK OF ILLNESS OR INJURY

DECISION OF COMMISSION

In the Matter of

David L. Arthur, Claimant
[REDACTED]

Rea Magnet Wire Company, Inc.
Buena Vista, Virginia

Employer

Date of Appeal
To Commission: June 8, 1978
Date of Review: October 27, 1978
Decision No.: 11147-C
Date of Decision: November 1, 1978
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. UI-78-3555), dated May 26, 1978.

ISSUE

Did the claimant voluntarily leave his 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 a decision of the Appeals Examiner which disqualified him for benefits effective April 9, 1978, for having left work voluntarily without good cause. Rea Magnet Wire Company, Inc., was the claimant's last employer, where he had worked as an enameling machine operator from January 30, 1978, through April 5, 1978. The claimant worked in an environment where chemical fumes existed and to which he had an allergic reaction. On April 1, 1978, he was examined by a physician who recommended that he move out of this type work because of its adverse effect upon his health. He discussed the matter with the personnel manager, asking for a possible transfer to other work. The claimant was informed that the only opening was an operator which would be in the same environment. He was asked to be examined by the company physician, to which he agreed. The company physician confirmed the diagnosis of the claimant's physician that he must move from the chemical fumes environment to protect his health. The claimant therefore resigned from his job.

Although the employer has had openings outside of the department in which the claimant worked since his resignation, it is the policy of the company not to reemploy individuals who have resigned.

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 that when a particular type of work is detrimental to an individual's health, the work is unsuitable employment for him, and he therefore would have good cause in leaving it. Inasmuch as this claimant was ordered by his doctor to leave the job on which he was employed because of its adverse effect on his health and the employer had no other suitable work available for him, it is concluded that his leaving 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 eligibility requirements of the Act during any weeks for which benefits have been claimed.


Jennie Pitts
Special Examiner