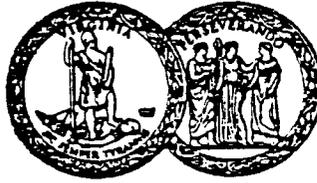


COMMONWEALTH OF VIRGINIA
VIRGINIA EMPLOYMENT COMMISSION

Voluntary Leaving: 235.25
Health or physical
condition - Illness or
injury.



DECISION OF COMMISSION

In the Matter of
Mary E. Manning, Claimant
[REDACTED]
Tidewater Regional Transit
Norfolk, VA 23504

Date of Appeal
To Commission: February 23, 1980
Date of Hearing: May 2, 1980
Decision No.: 13598-C
Date of Decision: May 6, 1980
Place: Richmond, Virginia

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This matter comes before the Commission on appeal by the claimant from the decision of the Appeals Examiner (UI-80-887), dated February 11, 1980.

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?

FINDINGS OF FACT

Tidewater Regional Transit of Norfolk, Virginia was the claimant's last employer, for which she had worked as a bus driver from January 9, 1979 through September 15, 1979.

The claimant lost her son in an automobile accident in December of 1978 and she and her sister were involved in an automobile accident in 1979. The two accidents placed the claimant under severe emotional stress so that she felt that she could no longer function safely as a bus driver with the responsibility of the lives of her passengers as well as the safety of the employer's bus. She asked for a month leave of absence to recuperate from her nervous condition, yet the employer was able to grant a leave of absence for only a week.

The claimant returned to work after taking off for a week but within a month she again felt that she was unable to continue driving. She left her job on September 15, 1979 because she felt that she was unable to discharge her duties to her employer and to her passengers in a safe manner.

The claimant's doctor, a George N. Cavros, M.D., certified on January 18, 1980 that the claimant suffered a depressive reaction and as of the date of his certification she was unable to drive a public vehicle. He stated that she was able to perform and work other than driving a public vehicle.

OPINION

Section 60.1-58 (a) of the Code of Virginia provides a disqualification if it is found that an individual has left work voluntarily without good cause. The Commission has generally held that good cause for voluntarily leaving work is limited to circumstances which are so compelling or necessitous that they left the claimant no reasonable alternative than to leave her work. Clear evidence that the particular type of work is detrimental to to an individual's health has generally been held by the Commission to constitute good cause for voluntarily leaving otherwise suitable employment.

In the case presently under consideration, the Appeals Examiner held that the claimant left without good cause because she had not been advised by her physician to quit her job. It should be noted that whether or not an individual was advised by her physician to leave would be one indication of the reasonableness of the decision to terminate her employment. Such a factor would not, in and of itself, be dispositive of the issue as other circumstances the case must be evaluated to determine whether or not the claimant acted as a reasonable person with no other alternative than to resign. The Commission notes that the claimant in this case, as a driver of a common carrier, owed a high standard of care to her employer and to her passengers. It is also the opinion of the Commission that the medical evidence in the case, although it was obtained after she left, establishes that the claimant was unable to perform her duties as a bus driver due to the emotional stress she was undergoing at the time of her leaving. The claimant did act reasonably in this circumstance as she had requested a leave of absence so that she could recuperate, but the employer was unable to grant such a request. These circumstances, coupled with her doctor's evaluation, lead the Commission to the conclusion that the claimant's decision to leave her employment was a reasonable one and was prompted by circumstances so compelling or necessitous that she had no reasonable alternative than to resign. Accordingly, although she left voluntarily she did so with good cause and would not be subject to the disqualification provided by the aforementioned section of the Act. (underscoring-supplied)

DECISION

The decision of the Appeals Examiner is hereby reversed. It is held that no disqualification should be imposed in connection with the claimant's last employment.

The Deputy is directed to determine the claimant's eligibility for benefits during the weeks claimed.


Kenneth H. Taylor
Special Examiner