



DECISION OF COMMISSION

In the Matter of:

Donna P. Pinkard
[REDACTED]

City of Roanoke
Roanoke, Virginia

Date of Appeal
to Commission: March 22, 1989
Date of Review: April 14, 1989
Place: RICHMOND, VIRGINIA
Decision No.: 31737-C
Date of Mailing: May 5, 1989
Final Date to File Appeal
with Circuit Court: May 25, 1989

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This matter comes before the Commission as the result of an appeal filed by the claimant from the Decision of Appeals Examiner (UI-88-310), mailed March 6, 1989.

ISSUE

Did the claimant leave work voluntarily without good cause as provided in Section 60.2-618.1 of the Code of Virginia (1950), as amended?

FINDINGS OF FACT

The claimant filed a timely appeal from the Appeals Examiner's decision which affirmed an earlier Deputy's determination and disqualified her for benefits, effective October 16, 1988 for having left work voluntarily without good cause.

Prior to filing her claim, the claimant last worked for the City of Roanoke, Virginia between December 17, 1979 and September 16, 1988. Her position was that of a child protection service worker at the Department of Social Services.

In addition to normal weekday work hours, employees of the claimant's classification had to share "beeper duty" which meant that they were on-call in the evenings, at nights, or on weekends in case a report of suspected child abuse or neglect were to come in at those times. Such calls as did come in were rotated among the staff and required an immediate response. This is what the Appeals Examiner termed the "crisis oriented" nature of the job.

Since 1985 when her mother died, the claimant had sought psychological counselling. Beginning in early 1988, she began to display symptoms of job-related stress which prompted her psychologist to make the recommendation that she seek some sort of accommodation with her supervisor concerning her duties.

The supervisor had a personal rule that employees could not take leaves of absence or vacations unless their work was caught up. The claimant's paperwork was beginning to get further and further behind to the point where she was downgraded on her last merit evaluation. Despite this, her supervisor did recommend that she get a raise and, after the claimant explained some of her problems, she allowed her to take "protected time" off which meant that she did not have to answer the telephone or respond to clients, but do her paperwork instead.

The claimant also asked for transfers to different jobs; however, she did not get them. She never specifically told her supervisor that she needed a leave of absence or a transfer for medical reasons and she never provided any medical documentation to the employer to back up any such request. Finally, on August 1, 1988, the claimant gave a six-week notice of her resignation to be effective September 16, 1988 and it was accepted. Her psychologist had recommended at this point that she should leave her job and a statement to this effect was furnished to the Commission and admitted into the record as an exhibit at the Appeals Examiner's hearing.

OPINION

Section 60.2-618.1 of the Code of Virginia provides a disqualification if it is found that a claimant left work voluntarily without good cause.

In the case of Lee v. Virginia Employment Commission, et al, 1 Va. App. 82, 335 S.E.2d 104 (1985), the Virginia Court of Appeals affirmed the following standards for establishing good cause for voluntarily leaving work:

"The Commission has adopted and held firmly to the premise that an employee, who for some reason, becomes dissatisfied with his work, must first pursue every available avenue open to him whereby he might alleviate or correct the condition of which he complains before relinquishing his employment. . . . He must take those steps that could be reasonably expected of a person desirous of retaining his employment before hazarding the risks of unemployment."

Here, the Commission has no reason to doubt that the claimant was undergoing stress, which to some extent was aggravated by the pressures of her work. The fact that the documentation she submitted to the Commission was from a psychologist and not from a psychiatrist or other medical doctor does not diminish its significance as competent medical evidence. Despite this, the Commission concludes that the claimant has failed to establish good cause for voluntarily leaving her job.

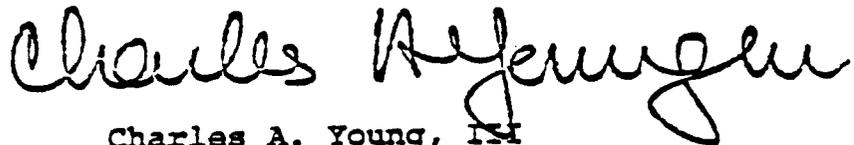
In reaching this conclusion, it must be noted that while the claimant may have attempted to secure a transfer to less demanding duties, she never directly approached her supervisor to explain her medical condition or present any documentary evidence of it. Had she taken a note from her psychologist to her supervisor to the effect that she needed a transfer for health reasons, then this would have represented a reasonable effort on her part to adjust with her employer the conditions of which she complained prior to resigning her job. Such information also could well have gotten the supervisor to set aside her personal policy of not granting vacations or leaves of absence to employees whose paperwork was not caught up. Indeed, there is ample evidence to indicate that the claimant's supervisor did attempt to work with her to adjust the conditions of her work when she did complain, and the Commission has no reason to believe that if she had taken the reasonable step of complaining further, additional accommodation could not have been made.

The manner in which the claimant's job came to an end also convinces the Commission that its terms and conditions could not have been so severe as to present an imminent danger to her health. Otherwise, she could not have given such a long notice of her intention to resign. In such a situation, the Commission is simply not convinced that the claimant took all reasonable steps prior to leaving her job to resolve her complaints with her employer so as to establish good cause for voluntarily leaving. Accordingly, she should remain disqualified for benefits under this section of the Code. (Underscoring supplied)

DECISION

The decision of the Appeals Examiner is hereby affirmed.

It is held that the claimant is disqualified for unemployment compensation, effective October 16, 1988, for any week benefits are claimed until she has performed services for an employer during thirty days, whether or not such days are consecutive and, she subsequently becomes totally or partially separated from such employment because she left work voluntarily without good cause.



Charles A. Young, III
Special Examiner