

COMMONWEALTH OF VIRGINIA
VIRGINIA EMPLOYMENT COMMISSION

VOLUNTARY LEAVING: 235.05
Health or Physical
Condition -- General.



DECISION OF COMMISSION

In the Matter of:

Rebecca Weakley
[REDACTED]

Sperry Marine Systems
Charlottesville, Virginia

Date of Appeal
to Commission: February 21, 1975

Date of Hearing: April 4, 1975

Place: RICHMOND, VIRGINIA

Decision No.: 6680-C

Date of Mailing: April 7, 1975

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This is a matter before the Commission on appeal by the claimant from the decision of the Examiner (No. UI-75-391) dated February 12, 1975.

ISSUE

Did the claimant voluntary leave her last employment without good cause within the meaning of Section 60.1-58(a) of the Code of Virginia (1950), as amended?

FINDINGS OF FACT AND OPINION

The findings of fact by the Appeals Examiner are adopted by the Commission.

At the hearing held by the Commission, several medical reports from the claimant's physician were introduced in evidence. The record establishes that the claimant suffers from several congenital defects, the Ehler-Danlos syndrome, a small bony spinal canal and arthritis. The claimant's medical problems were precipitated when she was injured in an automobile accident which occurred on December 17, 1972.

Following the accident, the claimant continued to perform her work as a draftsman for nearly two years until she began to

experience further problems. Her work required her to stand in order to reach the top of the drawing on her work table. When she experienced numbness and other symptoms she again consulted her physician. By letter dated September 27, 1974, Dr. Stewart reported as follows:

"Mrs. Rebecca Weakley suffers from compression and/or stretching of the cervical spinal cord, by hypertrophic cervical osteoarthritis and a congenitally narrow cervical boney spinal canal. The stretching and/or compression are aggravated by neck flexion. When they occur, the patient's arms become temporarily numb and if the situation were allowed to persist, permanent damage, with loss of both motor and sensory function would occur.

Barring some sort of satisfactory solution to the problem, however, it seems at the present time, that it could be extremely deleterious from a neurological point of view, to insist that this young woman continue to work on large drawings. Were her condition to be permanently aggravated by doing so, she would obviously have incurred a work connected aggravation of her disability, for which her employers would have to assume responsibility."

The employer then attempted to find other work for the claimant which she would be able to perform. The claimant testified that the other jobs were more strenuous than the drafting job and aggravated her physical conditions.

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.

It is apparent that the nature of the work which the claimant was performing was having an adverse effect on her physical condition which could have resulted in permanent damage. The claimant had attempted to perform all duties assigned to her but was unable to do so. The employer had attempted to find work for the claimant which she would be able to perform. After a complete review of the entire record, it is the opinion of the Commission that the claimant did have good cause for leaving her employment.
(Underscoring supplied)

DECISION

The decision of the Appeals Examiner is hereby reversed. The Deputy is directed to determine the claimant's eligibility for benefits for the weeks claimed.



B. Redwood Councill
Assistant Commissioner