

VIRGINIA EMPLOYMENT COMMISSION

DECISION OF COMMISSION

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Decision No.: 11424-C

VOLUNTARY LEAVING - 365.25
Prospects of other work:
Uncertain.

Date: January 8, 1979

This is a matter before the Commission on appeal by the claimant from the decision of the Appeals Examiner (No. UI-78-7144), dated November 16, 1978.

ISSUE

Did the claimant voluntarily leave her 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 her for benefits effective July 23, 1978, for having left work voluntarily without good cause. K-Mart Apparel Corporation was the claimant's last employer, where she had worked as a merchandise employee from September 2, 1977, through May 2, 1978. At the time of her work separation, the claimant, whose wages were \$2.75 per hour for a forty-hour workweek, was filling in for a layaway clerk who had taken maternity leave. The claimant understood that this work was temporary, although the layaway clerk had indicated she would not return after the birth of her child because she had no one to care for her children. Since the claimant believed that the job on which she was working was only temporary, she gave her supervisor a notice that she was seeking work elsewhere and would be leaving in two weeks. She had applied for work at Jellison and Goff Sewing Factory, but had not been hired as of her last day of work. On May 3, 1978, the claimant was offered a job by the manager of Jellison and Goff Sewing Factory at a wage of \$2.65 per hour for a forty-hour workweek. The claimant accepted the job offer and started to work on May 4, 1978, but was paid wages of \$2.85 per hour because of the type of machine to which assigned. She worked approximately 21 days, after which she was laid off because of a reduction in work orders for the plant. After the claimant had left her work with K-Mart Department Store, the employer hired a full-time replacement.

The claimant believes she should not be disqualified for benefits because she left her last thirty-day employment and went to work on a job with better pay which was closer to her home and on the bus route.

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. The phrase "good cause" has been consistently construed to embrace a claimant's decision to change from one job to another where she has a reasonable expectation of improving herself, or where she was justified in believing such a change to be in her own best economic interest. The Commission, likewise, has been consistent, however, in holding that to show good cause, the job to which the claimant transferred was permanent and she actually had obtained the job in contrast to mere

anticipation of securing it. Although the claimant in this case did, immediately after leaving her last thirty-day employment, commence work on another job which paid ten cents per hour more than she had been receiving and which also was located so as to reduce her efforts in commuting to work, she has not shown the new work was an improvement over the benefits of her former employment, which included employer-funded vacation, sick leave, hospitalization, and life insurance. Also, the claimant's argument that she left one job to accept another cannot be accepted since she has testified that, "...I had to put in a two-weeks notice at K-Mart before I had started working at Jellison and Goff. I didn't know whether I was going to get the job then or not anyway, but --I would have looked for me another job." This statement shows that the claimant intended to leave K-Mart whether or not she had another job at the time of leaving. The only reason she has given for being dissatisfied with the work at K-Mart was her understanding that the job was temporary. The claimant has not shown adequate justification for this understanding because she was working full-time and receiving benefits paid by the employer to permanent workers. In view of the above, it is concluded that the claimant did not leave her last thirty-day employment to accept a better job, but that she voluntarily left for reasons which have not been shown to constitute good cause as that term is used in the Unemployment Compensation Act. (Underscoring supplied)

DECISION

The decision of the Appeals Examiner disqualifying the claimant for benefits effective July 23, 1978, for having left work voluntarily without good cause is hereby affirmed and remains in effect for any week benefits are claimed until she has performed services for an employer during thirty days, whether or not such days are consecutive.