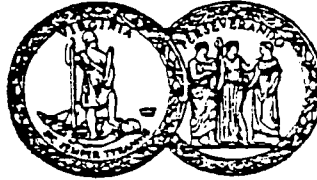


COMMONWEALTH OF VIRGINIA
VIRGINIA EMPLOYMENT COMMISSION



VOLUNTARY LEAVING - 425
SUITABILITY OF WORK

DECISION OF COMMISSION

In the Matter of

David D. Burke, Claimant
[REDACTED]

McDowell Industries, Inc.
Hopewell, VA 23860

Date of Appeal

To Commission: September 11, 1979

Date of Hearing: November 16, 1979

Decision No.: 12826-C

Date of Decision: November 20, 1979

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-79-5617), dated August 29, 1979.

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 AND OPINION

McDowell Industries, Inc. was the claimant's last employer for which he worked as sales manager from June 15, 1978 through April 18, 1979.

The claimant had been the former owner of the business and he agreed to stay on through June of 1979 in order to effectuate sales for the new owner. The claimant's uncontradicted testimony was that the new owner attempted to have him endorse what he considered to be an illegal price-fixing agreement with several competitors in March of 1979. Although the claimant refused to participate in the price-fixing, he felt that it would be unwise to continue to be associated with a firm engaged in an illegal practice. The claimant also testified that a week before he left his job, the vice-president of the company attempted to have the claimant perjure himself regarding an employment fee to be paid to an agency that the claimant had contacted on behalf of the company. The claimant was also dissatisfied that he was doing no sales work because the company was not manufacturing the product which he was to be marketing.

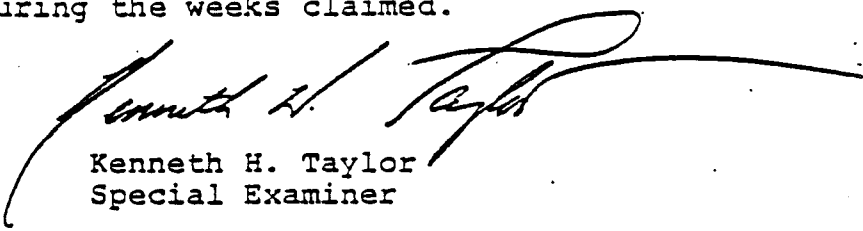
The employer failed to respond to the notice and has appeared at no hearing to present evidence and testimony to the contrary.

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 repeatedly held that an individual would have good cause to voluntarily leave unsuitable employment. Obviously, employment would be unsuitable if it required an individual to commit an unlawful act or engage in unethical business practices. Based upon the claimant's testimony, which has not been contradicted by any information furnished by the employer, it must be found that the claimant was being required to participate in unlawful and unethical practices. This rendered the work unsuitable and his leaving, though voluntary, was with good cause.

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 separation from his last employment.

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



Kenneth H. Taylor
Special Examiner