

VIRGINIA EMPLOYMENT COMMISSION

DECISION OF APPEALS EXAMINER

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Decision No: S-10599-10306

VOLUNTARY LEAVING - 440

Date: April 4, 1961

Termination of employment

POINTS AT ISSUE

- (1) Did the claimant voluntarily quit his last employment?
- (2) Has the claimant been available for work during the week or weeks for which he claims benefits?

FINDINGS OF FACT

The claimant appealed from a decision of the Deputy disqualifying him for benefits from February 15, 1961, through April 4, 1961, and reducing the total amount of potential benefits by seven times the weekly benefit amount for having voluntarily left his last employment without good cause.

The claimant was last employed by Cities Service Oil Company of New York City as a Saloon Messman at \$234.51 per month plus overtime. He had been employed from December 9, 1960, through March 11, 1961. According to an Agreement between the Seafarers International Union, Atlantic & Gulf District, AFL-CIO and the Company for whom the claimant worked, Article 1, Section 8, Paragraph 5, "The job circulation regulations may provide for requiring those possessing a seniority rating below Class A to leave a vessel after no less than sixty (60) days or one round trip, whichever is longer, provided, further, this regulation may not be applied so as to cause a vessel to sail shorthanded."

The claimant is rated as Class C and when called on December 9, 1960, he shipped in accordance with the Agreement the Union has with the Company. After completing 65 days, the ship returned to Wilmington, North Carolina, and the claimant was replaced by another member for a 60-day trip.

During the period the claimant has been claiming benefits he has contacted his union hall and has been watching the newspaper advertisements in an effort to find employment.

OPINION

Section 60-46(c) of the Virginia Unemployment Compensation Act provides in part that, in order to be eligible for benefits, a claimant must be available for work. Generally, to be considered available for work, among other things, a claimant must show that he is actively and earnestly looking for work, is ready and willing to accept all offers of suitable work, and does not place undue restrictions upon his employability.

"To be 'available for work' a claimant must be actively and unrestrictedly seeking suitable employment in the labor market where he resides. Dan River Mills, Inc. vs U.C.C. & Carolyn Jones, 195 Va. 997, 81 S. E. (2d) 620 (1954).

It has consistently been held that registering with the State Employment Service, asking relatives and friends if they know of any job opportunities, or reading want ads in the newspaper, is not enough to show that a claimant is anxiously seeking work.

During the period the claimant has been claiming benefits the only efforts he has made to find employment have been to keep in touch with his union and watch newspaper advertisements. It is held that he has not shown that he has been meeting the availability requirements of Section 60-46(c) of the Act.

Section 60-47(a) of the Virginia Unemployment Compensation Act provides a disqualification of seven weeks and the total amount of potential benefits reduced by seven times the weekly benefit amount if it is found that a claimant voluntarily quit his last employment without good cause.

When this claimant was hired he was hired for a definite period of 60 days or to complete one round-trip, whichever was longer, and in accordance with the Union Agreement between the employer and the Union, at the expiration of this period he was terminated. The claimant was hired for a definite period and, after working the period called for, was replaced by another crew member. He did not leave his job, nor did he quit. The terms of the Contract were at an end, and the work he had agreed to do was done. (Underscoring Supplied)

In view of the foregoing, the Examiner is of the opinion that the claimant did not voluntarily quit his employment and would not be subject to the disqualifying provisions of Section 60-47(a) of the Act.

DECISION

That portion of the Deputy's decision, holding that the claimant has met the eligibility requirements of the Act, is hereby reversed. It is held that the claimant has not met the eligibility requirements from February 15, 1961, through March 29, 1961, the date of the hearing before the Examiner.

It is also held that the claimant is not subject to a disqualification in connection with his separation from his last employment.

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NOTE: Decision affirmed by the Commission in Decision No. 3764-C, dated August 17, 1961.