



DECISION OF COMMISSION

In the Matter of

David R. Hodges, Claimant  
[REDACTED]

Best Products, Inc.  
Richmond, Virginia

Employer

Date of Appeal

To Commission: March 18, 1976

Date of Hearing: May 25, 1976

Decision No.: 7848-C

Date of Decision: May 27, 1976

Place: Richmond, Virginia

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This is a matter before the Commission on appeal by the claimant from the decision of the Examiner (No. UI-76-907), dated February 26, 1976.

ISSUE

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

FINDINGS OF FACT AND OPINION

Best Products, Inc., was the claimant's last employer for whom he worked as a manager-trainee from May 13, 1975, through November 30, 1975. Beginning in early September the employer required extensive overtime hours to be worked in order to prepare for the forthcoming Christmas season. According to the testimony presented by the claimant, this resulted in the claimant having approximately one day off per month and working from 70 to 80 hours per week. The claimant further stated that a policy was instituted by the Manager that employees would have no days off unless there was actually time to take off and, therefore, the employer did not schedule any days off.

In late October the claimant requested a transfer to another department in an effort to obtain fewer hours of employment. This request was denied by the

Store Manager. The claimant later went to the Showroom Manager and requested a transfer to another department or permission to work less hours, and the Showroom Manager denied the claimant's request, also.

The claimant stated that he had lost weight as a result of the excess overtime which he was putting in and finally resigned from his employment. Prior to the time of his resignation the claimant took the Civil Service exam as well as writing congressmen in an attempt to obtain federal employment. The claimant further stated that he could not set up personal interviews in order to seek employment in view of the fact that he was working from approximately 8 a. m. to 9 p. m. each day.

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. In discussing the meaning of good cause the Commission has consistently held that a claimant left work voluntarily without good cause unless he could show that his reasons for leaving were sufficiently necessitous and compelling as would prompt a person reasonably desirous of maintaining his employment to quit. Where the pressure of real not imaginery, substantial not trifling, reasonable not whimsical circumstances compell the decision to leave employment, the worker leaves voluntarily but with good cause.

In the present case the claimant has testified under oath that he was given excessive overtime amounting to approximately 70 to 80 hours of work per week. He further stated under oath that he was given only approximately four days off in about a four-month period and as a result of this lack of time off the claimant's weight had dropped from 120 pounds to 107 pounds.

In the opinion of the Commission the fact that the claimant was required to work excessive overtime without rest days would give him good cause to leave his employment. The Commission takes note of § 40.1-28.1 which provides that except in cases of emergencies, every employer shall allow each person employed by him at least 24 consecutive hours of rest in each calendar week. Since the claimant has stated under oath, and there has been no direct evidence to the contrary, that he received only about four days of rest within a four-month period, it appears that the amount of overtime required by his employer was excessive and would give the claimant good cause to leave his employment in view of the fact that he did not receive a rest day every week. This is especially true when one considers that this excessive overtime apparently had an adverse effect on the claimant's physical condition causing him to lose weight.

Furthermore, the claimant has appeared to exhaust all reasonable alternatives to leaving his employment. He did confer with two supervisors requesting a transfer or a reduction in hours; however, such requests were denied. The claimant also took the Civil Service exam and made inquiries about federal employment. Although the claimant made no personal interviews in attempting to

secure other employment prior to leaving his job, it is apparent that by virtue of his work hours it would have been very difficult, if not impossible, to have such personal interviews prior to leaving his employment.

When the totality of the circumstances surrounding the claimant's decision to leave his work is considered, the Commission is compelled to conclude that the claimant had good cause to leave such employment.

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 benefits are claimed.



B. Redwood Council  
Director of Appeals