

VIRGINIA EMPLOYMENT COMMISSION

DECISION OF COMMISSION

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Decision No.: 3650-C

VOLUNTARY LEAVING: 495  
Voluntary

Date: February 27, 1961

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This is a matter before the Commission on appeal by the claimant from the decision of the Examiner (No.S-10183-9998) dated January 26, 1961.

ISSUES

- (1) Was the claimant discharged for misconduct in connection with his work?
- (2) Did the claimant voluntarily quit his employment without good cause?
- (3) Has the claimant been available for work during the week or weeks for which he claims benefits?

FINDINGS OF FACT

The claimant, who was last employed by Morton Frozen Foods Division, Crozet, Virginia, appealed to this Commission from a decision of the Chief Appeals Examiner which held the claimant ineligible for benefits and also subjected him to a disqualification for having voluntarily left work without good cause.

It appears that the claimant was instructed by his supervisor to perform a certain task. Feeling that he might injure himself the claimant refused and left his job. There is no substantial evidence that the performance of the requested task involved any unusual degree of risk to his health and safety.

Subsequently he represented to supervisory personnel in another department of the employers that he was available for transfer. Through error he was given work in this other department. When the error was discovered he was dismissed.

Since filing his claim he has been making an active search for employment. He testified that he would be able to make arrangements for transportation should he be successful in securing employment.

OPINION AND DECISION

The Examiner was correct in his decision that the claimant voluntarily left his employment without good cause and should be subject to a disqualification. The claimant made no efforts to protect his employment before leaving. After refusing to obey the instructions of his employer he simply left without undertaking to establish to his employer's satisfaction that the type of work he had been asked to do was dangerous to his well being. Nor did he endeavor to discuss the matter with representatives of the employer who might have been able to arbitrate the difficulty existing between the claimant and his immediate supervisor. While it is true that the claimant sought and obtained work elsewhere in the employer's plant, he did so by either misrepresenting the facts or failing to reveal the true facts. This Commission has long recognized that

in order to have "good cause" for leaving employment, the claimant must show that the reason was so compelling and necessitous that the claimant had no other reasonable course of action to pursue than to leave. This has not been shown in the case at hand. (Underscoring supplied)

The Commission cannot agree that the claimant has failed to establish his eligibility. Such a conclusion by the Examiner appears to be predicated upon the finding that the claimant had no transportation to nearby places where he might obtain work. This Commission, based upon the evidence, has found as a fact that he could arrange transportation if he is able to secure employment.

In view of the foregoing, the decision of the Appeals Examiner is reversed in part and affirmed in part. The claimant is hereby declared eligible for benefits from December 5, 1960, through February 14, 1961, the date of the Commission hearing. He is awarded the week ending December 11, 1960, as a waiting period week

A disqualification is imposed from December 12, 1960, through January 29, 1961, and the claimant's potential benefits are reduced by seven times the weekly benefit amount, for having voluntarily left his last employment without good cause.