



DECISION OF COMMISSION

In the Matter of:

Tobby A. Deel
[REDACTED]

Yogi Mining Company
Grundy, VA

Date of Appeal
to Commission: March 17, 1987

Date of Review: April 28, 1987

Place: RICHMOND, VIRGINIA

Decision No.: 28449-C

Date of Mailing: April 30, 1987

Final Date to File Appeal
with Circuit Court: May 20, 1987

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This is a matter before the Commission on appeal by the claimant from the Decision of the Appeals Examiner (UI-87-1110), mailed March 13, 1987.

ISSUE

Did the claimant leave work voluntarily without good cause as provided in Section 60.2-618.1 of the Code of Virginia (1950), as amended?

FINDINGS OF FACT

On March 17, 1987, the claimant filed a timely appeal from a Decision of the Appeals Examiner. That decision held that the claimant was disqualified from receiving benefits effective December 21, 1986. The basis for the disqualification was the Appeals Examiner's finding that the claimant left his job voluntarily without good cause.

Prior to filing his claim for benefits, the claimant last worked for Yogi Mining Company of Grundy, Virginia. He had worked for this employer for approximately two and a half years as both a bridgeman and a timberman. He was a full-time employee and was paid \$68.40 a day. His last day of work with this company was on December 19, 1986.

On December 19, 1986, the claimant was laid off due to a lack of work. He had a definite recall date of January 12, 1987. The claimant elected not to return to work on the recall date.

OPINION

Section 60.2-618.1 of the Code of Virginia provides a disqualification if the Commission finds that a claimant left his job voluntarily without good cause.

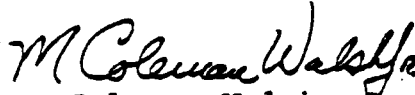
In this case, the claimant filed his claim for benefits effective December 21, 1986. As of the effective date of his claim for benefits, the reason the claimant was unemployed was due to the fact that he had been laid off for a lack of work. Accordingly, no disqualification may be imposed based upon the claimant's separation from work. (Underscoring supplied)

There is evidence in the record that the claimant had a definite recall date, but did not return to this employer. His failure to return on the recall date raises an issue of whether he refused, without good cause, an offer of available, suitable work. Since there is no evidence in the record concerning the suitability issue, the Commission cannot resolve it at this time. That issue shall be remanded to the Deputy for investigation and determination.

DECISION

The Decision of the Appeals Examiner is hereby reversed. It is held that the claimant is qualified to receive benefits, effective December 21, 1986, since he was laid off by his last employer due to a lack of work.

This case is remanded to the Deputy with instructions to investigate the claimant's claim for benefits and to determine whether he failed, without good cause, to accept an offer of suitable work when he failed to return to his employer on January 12, 1987.


M. Coleman Walsh, Jr.
Special Examiner