

UNEMPLOYMENT COMPENSATION COMMISSION OF VIRGINIA

---oCo---

Decision of Commissioner

VOLUNTARY LEAVING: 50
Attributable to, or
connected with employment

---oCo---

In the Matter of

Elsie F. Phillips, Claimant
Interstate Claim - N. C.

Dan River Mills, Inc.
Danville, Virginia

Employer

Appeal from Examiner

Date of Appeal: June 2, 1955

Date of Hearing: June 13, 1955

Decision No.: 2002-C.

Date of Decision: June 15, 1955

Place: Richmond, Virginia

---oCo---

This is a matter before the Commission on appeal by the claimant from the decision of the Examiner (No. IS-1165-1163) dated May 24, 1955.

ISSUES

- (1) Did the claimant voluntarily quit her employment without good cause?
- (2) Has the claimant been available for work during the week or weeks for which she claims benefits?

---oCo---

This cause came on as a review of the transcript of the evidence taken before W. F. Renfrow, Appeals Deputy of the North Carolina Employment Security Commission, at Raleigh, North Carolina on May 9, 1955, and upon the transcript of the evidence taken before E. L. Callear, Appeals Examiner of the Unemployment Compensation Commission of Virginia, in Danville, Virginia on April 21, 1955, and upon additional evidence presented by the claimant at her hearing before the Commission in Richmond, Virginia on June 13, 1955.

FINDINGS OF FACT

Claimant's last employer was Dan River Mills, Inc., Danville, Virginia where she worked from July 28, 1954 through March 4, 1955. She has been employed, off and on, by Dan River Mills since 1932. At the time of her separation she was employed as a spinner on the third shift at an average rate of \$1.40 an hour.

Claimant left her employment with Dan River Mills in order to seek work in Wake Forest, North Carolina where her aged parents reside. Claimant's mother and father are 80 and 88 years old respectively and are feeble, practically blind, and in necessitous circumstances. Claimant has moved into the home of her parents in order to minister

generally to the physical and financial needs of her parents.

Since moving to Wake Forest she has applied for work with the only textile mill in Wake Forest and has also applied to a textile mill in Raleigh, North Carolina some twenty-three miles from Wake Forest, as well as another six miles from Wake Forest. She has also contacted several groceries, two furniture stores, a cleaning establishment, and a five and ten cent store in her efforts to locate employment. She placed no restrictions on the wage for which she was willing to work, the type of work she was willing to accept, nor the hours she was willing to work.

At the time of her hearing before the Commission the claimant had succeeded in securing permanent employment on the third shift at Royal Cotton Mills in Wake Forest.

OPINION

In the opinion of the Commission this claimant has demonstrated that she was desirous of obtaining suitable employment and she made an active and unrestricted search of the labor market in which she is residing in an effort to locate such work. She was eventually successful in obtaining employment on the third shift and is presently working as a spinner at a wage substantially lower than she had earned while in the employ of Dan River Mills. The Commission is convinced of the claimant's good faith in earnestly endeavoring to locate suitable employment and concludes that she was available for work during the weeks for which she claimed benefits.

The only other issue raised in this appeal is whether or not this claimant should be disqualified under the provisions of §60-47(a) for having voluntarily left work without good cause.

This Commission has discussed the meaning of "good cause" as used in §60-47(a) on numerous occasions. It has been pointed out in those decisions that §60-47(a) at one time prescribed a disqualification if a claimant was "unemployed because he left work voluntarily without good cause involving fault on the part of the employer". Subsequently, however, the General Assembly amended §60-47(a) so as to delete the underscored language. Since this amendment the Commission has consistently recognized purely personal reasons, where such reasons are of a compelling nature, as constituting "good cause" for voluntarily leaving work. The rule most commonly accepted by administrative tribunals construing statutes similar to §60-47(a) has been that a reason which would cause a reasonable person, desirous of retaining his employment, to relinquish his job would constitute "good cause".

Therefore, where the pressure of real, not imaginary, substantial, not trifling, reasonable, not whimsical, circumstances compel the decision to leave employment, the worker leaves voluntarily but with good cause. The pressures of necessity, of legal duty, or family obligations or other compelling circumstances, and the worker's capitulation to them, will not penalize his right to benefits if he once again re-enters the labor market.

The claimant in this case relinquished her job at Dan River Mills, which she describes as a "good job" in order to assist with the care of her aged parents. The need for her services and presence in their home is clearly established in the record. The family physician recommended it and the claimant left her job

and accepted another which paid less in order to render a filial service, which was sorely needed. This, the Commission deems, was not only commendable but was compelling to the extent that she had good cause for leaving.

DECISION

For the reasons stated above the decision of the Appeals Examiner is affirmed in part, reversed in part. The claimant is hereby declared available for work from March 15, 1955 to June 6, 1955 the date on which she went to work. No disqualification should be imposed under §60-47(a).



J. Q. Rhodes, Jr., Commissioner