

COMMONWEALTH OF VIRGINIA
VIRGINIA EMPLOYMENT COMMISSION



VOLUNTARY LEAVING - 500.35
WAGES - FORMER RATE, COMPARISON
WITH

DECISION OF COMMISSION

In the Matter of

Ellen Cobbs, Claimant
[REDACTED]

Luv-N Oven
Scottsville, VA 24590

Date of Appeal
To Commission: September 11, 1979

Date of Hearing: December 6, 1979

Decision No.: 12784-C

Date of Decision: December 7, 1979

Place: Richmond, Virginia

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This matter comes before the Commission on appeal by the claimant from the decision of the Appeals Examiner (UI-79-5716), dated September 4, 1979.

ISSUE

Did the claimant leave her employment voluntarily without good cause as provided in Section 60.1-58 (a) of the Code of Virginia (1950), as amended?

FINDINGS OF FACT AND OPINION

Valmont Dairy Bar, trading as Luv-N Oven of Scottsville, Virginia, was the claimant's last employer for which she had worked from June, 1978 through July 11, 1979.

The claimant was hired by Chester F. Baker in June of 1978 to be the manager of the fast-food restaurant in question. At that time Mr. Baker was half owner of the business. The employer did not offer the claimant any fringe benefits at the time of hire but it was understood that she was to be paid a weekly salary of \$200.00. The claimant testified that she worked fifty or more hours per week on the average as manager of the Luv-N Oven.

In March of 1979 Chester F. Baker bought out his partner and brought his wife into the business as co-owner. The couple was

dissatisfied with the low earnings of the restaurant and in March of 1979 Mrs. Francis H. Baker informed the claimant that she would be taking over as manager of the restaurant. At that time, the claimant was told she could continue working on an hourly basis for \$3.00 an hour during the week and \$4.00 an hour on Sundays. The claimant accepted this arrangement and began working as an hourly employee. She testified that she only worked thirty to forty hours per week under this arrangement although she did participate in writing the schedule. She never asked the employer if she could work more than thirty to forty hours per week.

The claimant was dissatisfied that her earnings had been reduced from \$200.00 per week to \$120.00 per week. She asked the employer if she could go on vacation with her husband for a week beginning in July, 1979 and when the employer stated that she could go but without pay the claimant quit her job. She had no definite prospects of employment elsewhere at the time she left.

The claimant maintains that she did not accept the hourly wage and the demotion from manager to counter girl by continuing in such employment for four months but she had looked around at the time and was unable to find a job which paid any more than than in the Scottsville area.

Section 60.1-58 (a) of the Code of Virginia provides a disqualification if it is found that an individual has left work voluntarily without good cause.

The Commission has frequently stated that the underlying purpose of unemployment compensation law is to facilitate employment rather than unemployment; therefore, it would be inconsistent with that basic purpose of the law to award benefits to an individual who voluntarily leaves suitable employment. In the case presently under consideration, the claimant had been demoted by the employer in March of 1979, yet she accepted the conditions of the new work and continued in that employment for approximately four months. It should be noted that the rate of pay, though lower than what she had received when she was hired, exceeded the prevailing rate for similar work in the locality as she was unable to find work during that four months which would have remunerated her as well. It is concluded, therefore, that the work which the claimant was performing was suitable at the time of her leaving notwithstanding the reduction in her gross weekly pay.

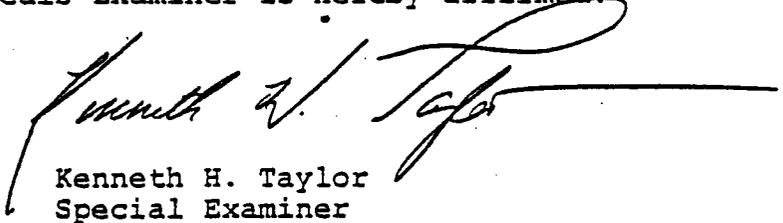
The Commission has repeatedly held that an individual who becomes dissatisfied with her work should take those steps which a reasonable person, desirous of retaining her employment, would take in order to resolve her differences with the employer prior to leaving. It would appear that a reasonable person, in the claimant's position, would have requested more hours of the employer prior to leaving her job, yet the claimant failed to do so. It is also interesting to note that the claimant participated in the scheduling of the work and was certainly in a position to have increased her hours of work had she desired to do so.

In view of the above it is the opinion of the Commission that

the claimant voluntarily left suitable employment without good cause as that term is used in the Act.

DECISION

The decision of the Appeals Examiner is hereby affirmed.



Kenneth H. Taylor
Special Examiner