



VIRGINIA EMPLOYMENT COMMISSION

DECISION OF APPEALS EXAMINER

VOLUNTARY LEAVING: 500.5
Wages-Low.

In the matter of:

Claimant

John Henderson, Jr.
123 East Clifford Street
Alexandria, VA 22305

Employer

Jerry's Ford
6510 Little River Turnpike
Annandale, VA 22003

Appellant	<input type="checkbox"/> Employer	<input checked="" type="checkbox"/> Claimant
Claimant's SS No.	[REDACTED]	
Decision No.	[REDACTED]	01-74-1569
Date Deputy's Determination.	June 13, 1974	
Date Referred or Appealed:	June 19, 1974	
Date of Hearing:	July 10, 1974	
Place of Hearing:	Alexandria, Virginia	
Date of Decision:	July 16, 1974	
Date of Mailing:	July 17, 1974	

APPEARANCES: Claimant

STATUTORY PROVISIONS & POINTS AT ISSUE: Code of Virginia § 60.1-58 (a) Did the claimant voluntarily leave his last employment without good cause? § 60.1-52 (g) Has the claimant been available for work during the week or weeks for which he claims benefits?

FINDINGS OF FACT: The claimant appealed from a determination of the Deputy, which disqualified him for benefits effective April 21, 1974, for having left work voluntarily without good cause.

Jerry's Ford, Annandale, Virginia, was the claimant's last thirty day employer for whom he had worked as a new car serviceman from October 1972, through February 27, 1974.

The claimant's wages were \$3.00 per hour while working on new cars. If no work was available, he would receive the minimum wage. He normally had been earning approximately \$100.00 per week. When new car sales dropped in February, his earnings correspondingly were reduced to the extent that his earnings during his last week of employment were \$48.00. The claimant felt he could not live on these wages and found other work with Thrifty Rental Car Service, Alexandria, Virginia, as a vehicle serviceman where the wages were \$479.00 per month. He started to work for this employer on March 5, 1974. He worked a total of twenty-nine days through April 12, 1974, at which time he was released from the new work by the employer.

The claimant's last thirty day employer was duly notified of the hearing to be held on the appeal but failed to appear or respond to the notice.

The claimant filed a claim for benefits effective April 21, 1974, and claimed benefits for the two weeks ending May 4, 1974. During this period, he personally applied to employers each week for work.

OPINION: § 60.1-58 (a) of the Virginia Unemployment Compensation Act provides a disqualification if it is found a claimant left work voluntarily without good cause.

The Commission in Decision No. 3160-C had this to say:

"The phrase 'good cause' has been consistently construed to embrace a claimant's decision to change from one job to another where he has a reasonable expectation of improving himself or where he deemed such a change to be for his own best interest. If the job to which he transfers is permanent, or he has a reasonable basis for believing it to be, and he has actually obtained the job, in contrast to mere anticipation of securing it, his leaving must be deemed to be with 'good cause'."

Since this claimant's work with his last thirty day employer had been reduced because of the lack of new car sales to the extent that he was not receiving a reasonable wage, it would appear he had good reason in finding other work which paid an acceptable income. For this reason and since the employer did not appear at the hearing furnishing evidence to the contrary, it is concluded that the claimant had good cause in voluntarily leaving his last thirty day employment.

It also is the opinion of the Appeals Examiner that the claimant was meeting the availability for work requirements of § 60.1-52 (g) of the Code of Virginia.

DECISION: The determination of the Deputy, disqualifying the claimant for benefits for having left work voluntarily without good cause, is hereby reversed.

It also is held that the claimant had met the eligibility requirements of the Act from April 21, 1974, through May 4, 1974, the claim weeks before the Appeals Examiner.


Eugene Pitts, Appeals Examiner

OP:reh

NOTE: This decision was affirmed by the Commission in Decision No. 6455-C dated September 30, 1974.