



DECISION OF COMMISSION

In the Matter of

Shirley M. Harden, Claimant
[REDACTED]

Newport News Shipbuilding
& Dry Dock Company
Newport News, Virginia

Employer

Date of Appeal
To Commission: October 16, 1978

Date of Review: December 21, 1978

Decision No.: 11386-C

Date of Decision: December 26, 1978

Place: Richmond, Virginia

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This is a matter before the Commission on appeal by the claimant from the decision of the Appeals Examiner (No. UI-78-6211), dated October 2, 1978.

ISSUE

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

FINDINGS OF FACT AND OPINION

The claimant appealed from a decision of the Appeals Examiner which disqualified her for benefits effective August 13, 1978, for having left work voluntarily without good cause. Newport News Shipbuilding & Dry Dock Company was the claimant's last employer, where she had worked from October 23, 1973, through August 2, 1978. At the time of her work separation, the claimant was employed as a painter in the X-33 Department earning \$6.13 per hour. The claimant's duties required that in addition to painting, she remove rust from surfaces in preparation for painting.

The claimant's husband died in mid-October, 1977, and as a result, she had missed work from about that time until early January, 1978. The claimant then, at different times, discussed the job with her supervisor, indicating that because of the rust removal, she felt the work was too dirty. The claimant's doctor, whose specialty is obstetrics and gynecology, has signed a certificate of health dated August 23, 1978, certifying that the claimant was seen for the first time on April 19, 1978, for anxiety, tension, and agitation. The doctor has certified that she advised the claimant to quit her job because of health, but also certified that there was no period of incapacitation, and that the claimant was

physically able to work without any restrictions on the type of work she could perform.

The claimant's supervisor has testified that during the first part of August, 1978, the claimant had advised that she was quitting, and when asked why, she stated that she was tired of "busting rust" and she felt that she wanted to look and act like a lady for a change again. The supervisor also testified that the claimant had never discussed anything her doctor had said with him.

The claimant has testified that she felt as if she couldn't do the work anymore because it was dirty and the rust was getting to her. She stated that her doctor had "...talked to me and asked me why didn't I try to find another job somewhere. I said, well, I was going to try for a while longer there; see how things were -- worked out for me, but it just didn't work out, so, I just quit."

Section 60.1-38(a) of the Virginia Unemployment Compensation Act provides a disqualification if it is found a claimant left work voluntarily without good cause. Although this claimant's desire not to perform the type work to which assigned is understandable, there has been no showing that the conditions of work made it unsuitable employment for individuals of her work classification. While this claimant's doctor has stated that she advised the claimant to quit that work, she also has certified that the claimant was physically able to work without there being any restrictions on the type of work she could perform. Under these circumstances, it is evident that she was not compelled without reasonable alternative to give up her employment at the time she did. It is concluded, therefore, that the claimant's leaving was voluntary and without good cause as that term is used in the Act.

DECISION

(Underscoring supplied)

The decision of the Appeals Examiner disqualifying the claimant for benefits effective August 13, 1978, for having left work voluntarily without good cause is