

VIRGINIA EMPLOYMENT COMMISSION

DECISION OF APPEALS EXAMINER

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Decision No.: UI-73-1062

VOLUNTARY LEAVING: 510.05

Date: June 18, 1972

Work, nature of
General

ISSUE

Did the claimant voluntarily leave her last employment without good cause?

FINDINGS OF FACT

The claimant appealed from a determination of the Deputy which disqualified her for benefits effective April 29, 1973, for having left work voluntarily without good cause.

Danville Industries, Inc., Danville, Virginia, was the claimant's last employer and where she had worked as a boarder from September 13, 1972, through December 22, 1972.

On or about December 18, 1972, the claimant had suffered an injury to her left thumb and she had informed a supervisor of this fact. She continued to work, however, through December 22, when the plant closed for the Christmas vacation and she was scheduled to return to work on January 2, 1973.

According to the employer representatives, they were aware that the claimant was off from work due to the injury to her thumb. In the intervening weeks, the insurance carrier for the company had talked with the claimant's doctor and it was agreed she could return to work on a light-duty basis. On February 5, 1973, the claimant had come to the plant and the job of sorting socks had been shown to her and she agreed that she could do this by utilizing only one hand. As a result of this, the claimant reported into work on the morning of February 6, 1973. At that time, work as a sock-sorter was not available and she was shown the operation and asked if she could work as a trimmer, which she agreed to do. After working for approximately six hours, the claimant reported that she was ill and could no longer continue to work. At the same time, she signed a statement which reads as follows:

"I, Chriso New, being aware of the light job offered to me by Danville Industries, Inc., would prefer not to take it at my own expense. I will return to work on my regular

"job (Boarding) on release from Dr. Atkins."

This was signed by the claimant, her supervisor, and the personnel manager.

According to the claimant, when she attempted to work on February 6, 1973, her thumb had begun to hurt to the extent that it was making her sick and she had decided to go home. She acknowledges that she had signed a paper as stated above. She continued under the care of her doctor until May 2, 1973, when she was released as being able to return to her regular occupation. She did not return to her job, however, as she had been informed that her employment had been terminated.

According to the employer, no action was taken towards the claimant's termination following the incident of February 6, 1973, and several attempts were made to contact the claimant to determine when she might be expected to return to work. When she could not be contacted and in view of the letter which she had signed, it was then decided that her employment would be terminated since it was necessary that they secure a replacement.

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.

While there is some conflict in the sequence of events which occurred following the claimant's last day of work on December 22, 1972, the Appeals Examiner is of the opinion that the evidence clearly shows that the claimant was released by her doctor as being able to return to do light work and that such work was given to the claimant on February 6, 1973. After working part of the day, the claimant had then left this job and at the time had signed a statement that she was unwilling to accept the light job which had been offered to her by her employer. This in effect was a voluntary quit on the part of the claimant since she left her employment rather than perform the work which the employer had to offer and which she had been released by her doctor as being able to perform. Certainly, the claimant's actions in failing to contact or notify her employer of her condition subsequent to February 6, 1973, further strengthens the assumption that the claimant had decided to abandon her employment. (Underscoring supplied.)

DECISION

The determination of the Deputy, disqualifying the claimant effective April 30, 1973, for having left work voluntarily without good cause, is hereby affirmed and remains in effect for any week benefits are claimed until she has performed services for an employer during thirty days, whether or not such days are consecutive.

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NOTE: Decision affirmed by the Commission in Decision No. 6044-C, dated July 24, 1973.