



DECISION OF COMMISSION

In the Matter of

Jerry Fowler, Claimant
[REDACTED]

E. R. Carpenter Company
Richmond, VA 23261

Date of Appeal

To Commission: October 11, 1979

Date of Hearing: December 12, 1979

Decision No.: 12948-C

Date of Decision: January 17, 1980

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-79-6395), dated September 27, 1979.

ISSUE

Did the claimant leave work 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

E. R. Carpenter Company of Richmond, Virginia was the claimant's last employer for which he worked from October 30, 1978 through June 7, 1979. He was working as a tractor trailer driver being paid approximately \$347.00 a week at the time of his separation.

On June 7, 1979 the claimant took a load from Richmond, Virginia to Mt. Joy, Pennsylvania. He left Richmond at 2:00 a.m. and arrived in Pennsylvania at 7:15 a.m. He waited five and a half hours for the vehicle to be unloaded and returned to his home in Alexandria, Virginia. After returning home the claimant was notified by his wife that Jim Warren, the dispatcher, had requested that he report to the employer's premises in Richmond to make another trip. The claimant arrived in Richmond at approximately 8:00 p.m. and was informed that he was to make a trip to New Jersey. The claimant refused to accept the assignment since he believed that he had not been afforded sufficient rest after the trip to Pennsylvania so as to comply with I.C.C. regulations.

He testified that after he refused the assignment he had no further contact with the employer until three weeks later (transcript, page 32). He testified that he called the employer on or about June 21, 1979 in order to see exactly what he should do, what sort of references he would get, and so forth. The claimant maintains that since the employer did not call him back on June 8, 1979, he had been terminated.

The claimant testified that the vehicles were in unsafe working order and that the drivers were consistently required to falsify their logs so as to appear to be in compliance with I.C.C. regulations. He had never notified either the plant manager or the personnel director who hired him of these complaints, nor did he make any formal complaint to the Department of Transportation. He maintained at the hearing before the Commission that he was fearful of losing his job if he made such complaint.

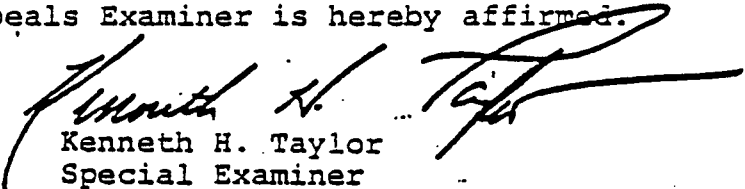
Section 60.1-58 (a) of the Code of Virginia provides a disqualification if it is found that an individual has left work voluntarily without good cause. The Commission has repeatedly held that when an individual becomes dissatisfied with the wages, hours, or other conditions of his work he must take reasonable steps to resolve the differences with his employer prior to relinquishing his employment with no prospects of work elsewhere. The obvious rationale for this rule is that by properly apprising the employer of adverse working conditions the individual may effect a resolution to the difficulty of which he complains while continuing in his employment.

In the present case the claimant would have the Commission adjudicate the issue of whether or not the employer was in compliance with I.C.C. regulations; this is obviously not the function of the Virginia Employment Commission which is called upon merely to determine whether or not the claimant's unemployment was due to no fault of his own so as to entitle him to unemployment compensation. In accordance with the general principle set forth above, the claimant in this case was under a duty to put his employer on notice of the working conditions or which he was dissatisfied prior to leaving. The record is clear and unequivocal on this point that the claimant made no such effort. The explanation given by the claimant for his failure to notify the employer of these conditions does not bear the test of reason; while he may have faced loss of his job for exposing the alleged conditions, his act of voluntary leaving resulted in certain unemployment. (Underscoring supplied)

In view of the foregoing, it is the opinion of the Commission that the claimant left work voluntarily for reasons which would not constitute good cause as that term is used in the statute.

DECISION

The decision of the Appeals Examiner is hereby affirmed.


Kenneth H. Taylor
Special Examiner