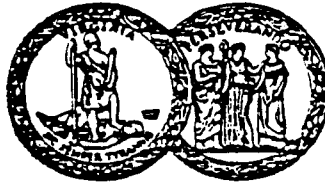


COMMONWEALTH OF VIRGINIA
VIRGINIA EMPLOYMENT COMMISSION

VOLUNTARY LEAVING: 515.8
Working Conditions —
Supervisor.



DECISION OF COMMISSION

In the Matter of

Sheila D. Mason
[REDACTED]

Seven Eleven
Richmond, Virginia 23225
Employer

Date of Appeal

To Commission: January 18, 1980

Date of Hearing: June 16, 1980

Decision No.: 13417-C

Date of Decision: July 3, 1980

Place: Richmond, Virginia

This is a matter before the Commission on appeal by the claimant from the Decision of the Appeals Examiner (No. UI-80-39), dated January 14, 1980.

ISSUE(S)

Was the claimant discharged for misconduct in connection with her work as provided in Section 60.1-58 (b) of the Code of Virginia (1950), as amended? 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 had appealed from a Decision of the Appeals Examiner which had disqualified her for benefits effective November 25, 1979, for having been discharged for misconduct in connection with her work.

The claimant was last employed as a clerk at the Seven-Eleven Store #11073, Richmond, Virginia from August 9, 1979, to November 26, 1979. On the claimant's last day at work when the manager came in, he instructed the claimant to wait on the customers, fill the "vaults", and clean certain machines. The claimant resented the manager's tone and believed he was telling her to do all three jobs at the same time which was impossible. She therefore told the manager "Just to make up his mind what he wanted me to do". The manager then indicated to the claimant that if she could not do what she was told to do, she could leave. The claimant left.

The claimant knew of another employee who had worked in the same store under the supervision of the manager and had requested and received a transfer to another store because of what she considered the manager's overbearing and abrasive manner. About two days after leaving her job, the claimant called the manager's supervisor and requested a transfer. The supervisor gave the claimant the name of a manager of a store where there was a vacancy. The claimant called this manager who said he would consider her request and give her a decision later. He later told the claimant that he had hired a better qualified applicant. The claimant believed that because she was not accepted on this job, the employer did not want to give her a transfer and she therefore did not contact the supervisor again about other vacancies.

Inasmuch as the claimant left her job rather than having been discharged by the employer, it is apparent that her separation should be considered under the provisions of Section 60.1-58 (a) rather than Section 60.1-58 (b) of the Code of Virginia.

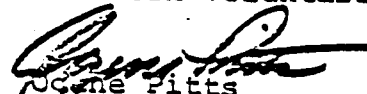
Section 60.1-58 (a) of the Code provides a disqualification if it is found that a claimant left work voluntarily without good cause.

Conditions of work are seldom, if ever, ideal in every respect. Where differences with supervision cannot be resolved to a worker's satisfaction but are not so severe that she is compelled without alternative to leave immediately, a worker should seek the security of other employment before hazarding the economic risk of unemployment. Although this claimant felt personally justified in leaving her job because of her dissatisfaction with her supervisor's instructions and manner, she has not shown that she was compelled without alternative to discontinue the work at the time she did. The claimant could have continued working making reasonable efforts to resolve with the manager her dissatisfaction. If these efforts failed, she had the reasonable option as her co-worker had previously done, of requesting a transfer to other work before summarily abandoning her job. The fact that the claimant later asked for an assignment elsewhere, does not erase the fact that she had already left work. It is concluded that the claimant's leaving was voluntary and without good cause as that term is used in the Unemployment Compensation Act. (Underscoring supplied)

DECISION

The Decision of the Appeals Examiner is hereby amended.

It is held the claimant is disqualified for benefits effective November 25, 1979, for any week benefits are claimed until she has performed services for an employer during thirty days, whether or not such days are consecutive because she left work voluntarily without good cause.


Gene Pitts
Special Examiner

NOTE: Affirmed by the Circuit Court of the City of Richmond, Division 1, dated January 22, 1982 (copy of Order attached)..

Virginia:

In the Circuit Court of the City of Richmond, Division 1,

THE 22nd DAY OF January 19 82

SHEILA D. MASON

PLAINTIFF

v.

VIRGINIA EMPLOYMENT COMMISSION
and
SEVEN-ELEVEN STORES.

DEFENDANTS

ORDER

THIS CAUSE came before the Court pursuant to Virginia Code §60.1-67, as amended, upon a Petition For Review, respondent's answer thereto, the record of proceedings before the Commission, memoranda by counsel, and was argued by counsel. Upon consideration whereof the Court is of the opinion that the Commission's material findings of fact are supported by evidence in the record. Furthermore, the Court specifically adopts the standard applied by the Commission: in order to show good cause the claimant must show that her reason for leaving her employment "was of such a compelling and necessitous nature as to offer a reasonable individual no other alternative except to quit her job." The Commission did not err in holding that the petitioner failed to meet that standard. (Underscoring supplied)

Now, therefore, it is ORDERED that the decision of the Virginia Employment Commission be affirmed and that the petition for review be dismissed.

A TRUE AND CERTIFIED COPY
EDWARD G. KIDD, CLERK

By Ann P. Lytle
Deputy Clerk