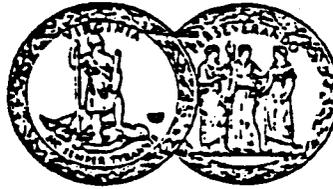


COMMONWEALTH OF VIRGINIA
VIRGINIA EMPLOYMENT COMMISSION

VOLUNTARY LEAVING: 515.4
Working Conditions - Fello
Employee.



DECISION OF COMMISSION

In the Matter of:

Carolyn Bolden
[REDACTED]

City of Alexandria
Alexandria, VA 22313

Date of Appeal
to Commission: June 2, 1988
Date of Review: July 6, 1988
Place: RICHMOND, VIRGINIA
Decision No.: 30472-C
Date of Mailing: July 15, 1988
Final Date to File Appeal
with Circuit Court: August 4, 1988

---oOo---

This is a matter before the Commission as the result of an appeal filed by the claimant from the Decision of Appeals Examiner (UI-8804612), mailed May 27, 1988.

ISSUE

Did the claimant leave work voluntarily without good cause as provided in Section 60.2-618.1 of the Code of Virginia (1950), as amended?

FINDINGS OF FACT

The claimant filed a timely appeal from the Appeals Examiner's decision which affirmed an earlier Deputy's determination disqualifying her for benefits effective April 10, 1988, for having left work voluntarily without good cause.

Prior to filing her claim, the claimant had last worked for the City of Alexandria, Virginia between September, 1982, and February 17, 1988. Her position was that of account clerk II

and, although she started out at approximately \$12,000 per year, she received regular cost of living and merit raises to the point where she was making a salary of \$19,542 per year at the time of her separation.

When the claimant first filed her claim, she indicated that she had voluntarily left her job and stated as her reason: "The cost of living, especially housing rose faster than my salary, which made it impossible to stay in the Alexandria area." On April 26, 1988, she gave a further statement to the Commission. The claimant amplified on her personal financial situation, including the fact that she owned a home in Glade Spring, Virginia while renting an apartment in the Washington, D.C. area. For the first time, she also mentioned that she had been having problems with a co-worker on the job and that this led to her decision to resign. After being initially disqualified by the Deputy, the claimant filed an appeal in which she stated: "I was harrassed (sic) on my job to the point The (sic) I felt I had to leave because supervision would not do anything about the problem.

It was approximately a year before her separation that the claimant began experiencing problems with a co-worker in the adjacent cubicle to her. She complained that the co-worker's smoking bothered her while the co-worker complained that music the claimant was playing at her desk bothered her. The City had recently promulgated a policy which permitted smoking at the work station only if the employee purchased an air filter at their own expense and used it. The policy further provided that if other employees continued to complain, smoking could be banned in the entire work station. The claimant's continued complaints ultimately resulted in such a ban.

Thereafter, the attitude of the co-worker towards the claimant deteriorated to the point where she was simply uncivil and would not acknowledge her presence. The claimant did go to a member of management to complain but felt that the situation got no better. She then considered filing a grievance and even contacted her union representative about this; however, she decided against it.

On January 22, 1988, the claimant submitted a letter of resignation to the City Treasurer. At that time, he was able to persuade her to withdraw it on the promise that he would move her to a different cubicle so that she could get away from the

co-worker with whom she was having problems. On January 26, 1988, the claimant submitted a second letter of resignation indicating that she would be leaving as of February 17. The Treasurer's attempts to get her to withdraw this one as well were unsuccessful and she left work on February 17 as she had promised to do. One of the reasons she gave for not rescinding the second letter of resignation was that she had already put in her notice to vacate her apartment as of the time she had submitted the first letter of resignation.

OPINION

Section 60.2-618.1 of the Code of Virginia provides a disqualification if it is found that a claimant left work voluntarily without good cause.

In the case of Lee v. Virginia Employment Commission, et al, 1 Va. App. 82, 335 S.E.2d 104 (1985), the Virginia Court of Appeals affirmed the following standard for establishing good cause for voluntarily leaving work:

The Commission has adopted and held firmly to the premise that an employee, who for some reason, becomes dissatisfied with his work, must first pursue every available avenue open to him whereby he might alleviate or correct the condition of which he complains before relinquishing his employment. . . . He must take those steps that could be reasonably expected of a person desirous of retaining his employment before hazarding the risks of unemployment.

In the present case, the available evidence indicates that once the claimant did make complaints about the co-worker smoking, action was taken to alleviate that situation. Unfortunately, the solution apparently angered the co-worker to the point where she could not even be civil to the claimant. It was certainly reasonable for the claimant to go to members of management in an attempt to resolve the situation; however, it would also have been reasonable for her to file a grievance if management did not respond to her complaints in an appropriate fashion. By choosing to forego the filing of a grievance even though she knew the procedure was available, the claimant was not taking a reasonable step which could possibly have alleviated her complaint. Additionally, it is apparent that once she made known her intention to quit her job by

submitting the first letter of resignation, the City Treasurer was willing to move her to a different location so she could get away from the co-worker. The claimant's decision not to try this, but to simply submit a second letter of resignation in the following week is a second example of her failure to explore a reasonable opportunity to adjust the situation of which she complained at work prior to quitting. (Underscoring supplied)

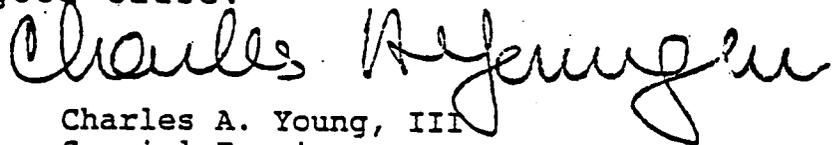
The fact that when she first filed her claim for benefits, the claimant mentioned only the high cost of living as prompting her decision to leave is also of some significance. In this regard, her case is extraordinarily similar to that of Allen v. Diversified Mailing, Commission Decision 26610-C, (February 27, 1986). As in Allen, supra, the Commission in this case feels that a large part of the claimant's decision to leave work was prompted by her decision that the living costs where she worked were too high and she had a place in another locality that she could move back to. In light of the fact that she had received raises from the City of Alexandria totaling nearly sixty percent during the course of her employment strongly contradicts any financial argument the claimant may have had for leaving.

After reviewing the evidence in this case, the Commission concludes that the claimant has failed to establish good cause for voluntarily leaving the employer's services. Accordingly, she should remain disqualified for benefits under this section of the Code.

DECISION

The Decision of Appeals Examiner is hereby affirmed.

It is held that the claimant is disqualified for unemployment compensation effective April 10, 1988, for any week or weeks benefits are claimed until she has performed services for an employer during thirty days, whether or not such days are consecutive, and she subsequently becomes totally or partially separated from such employment, because she left work voluntarily without good cause.



Charles A. Young, III
Special Examiner