

VIRGINIA EMPLOYMENT COMMISSION

DECISION OF APPEALS EXAMINER

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Decision No.: UI-71-2612

VOLUNTARY LEAVING: 515.05

Date: February 28, 1972

Working conditions

General

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ISSUE

Was the claimant discharged for misconduct in connection with his work?  
Did the claimant voluntarily leave his last employment without good cause?

FINDINGS OF FACT

The claimant appealed from a determination of the Deputy which disqualified him for benefits effective September 12, 1971, for having been discharged for misconduct in connection with his work.

WLVA, Inc., Lynchburg, Virginia, was the claimant's last employer for whom he had worked as program director and morning show host from September 9, 1970, through July 30, 1971. When the claimant was initially employed he was instructed to develop programs aimed at young people. He felt that his efforts in doing this were successful, but income from program sponsors decreased. When new management took over the business on July 1, 1971, program objectives were changed to aim the program toward an older audience. The claimant also found that the management sometimes dealt directly with the announcing staff, which caused him to feel his position was being undermined. In spite of his dissatisfaction with these actions the claimant tried to make the program a success. By July 28, 1971, however, he concluded that he could not continue under the circumstances and told the employer that he was resigning. Although he had expected to continue working sometime longer, on July 29, 1971, the employer told him that his employment was ending effective July 30, 1971.

OPINION

Inasmuch as the claimant initiated the action which ended his employment, it is the opinion of the Appeals Examiner that his separation from work 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 Virginia Unemployment Compensation Act provides a disqualification if it is found a claimant left work voluntarily without good cause.

The Commission, in Decision No. 3069-C, had this to say:

"In a number of its previous decisions this 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. Stated in other terms, the claimant must have made every effort to eliminate or adjust with his employer the difference or conditions of which he complains. He must take those steps that could be reasonably expected of a person desirous of retaining his job before hazarding the risk of unemployment."

The evidence in this case does not show that the claimant took all of the available steps to adjust with the employer the differences and dissatisfactions which he felt before deciding to leave his job. The fact that the new management would deal directly with announcers did not compel his resignation. The new management clearly had the right to establish program objectives and to expect employees' cooperation in carrying out these objectives. Although the claimant felt that under the circumstances he could not continue with his job he apparently could have done so until he found other work more acceptable to him, providing he could not resolve his differences with the employer. While the employer did not allow him to continue much longer after he announced he was resigning, it was the claimant who initiated the action which ended his employment. It is concluded that this action was tantamount to a voluntary leaving of work which was without good cause, within the meaning of that term as used in the Act. (Underscoring supplied.)

#### DECISION

The determination of the Deputy is hereby amended. It is held that the claimant is disqualified for benefits effective September 12, 1971, and for any week benefits are claimed until he has performed services for an employing unit during thirty days, whether or not such days are consecutive, because he left work voluntarily without good cause.

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NOTE: Decision affirmed by the Commission in Decision No. 5619-C, dated April 26, 1972.