



**VIRGINIA EMPLOYMENT COMMISSION**

DECISION OF APPEALS EXAMINER

VOLUNTARY LEAVING: 515.5

Working conditions-  
Morals.

In the matter of:

Claimant

Frances T. Spencer  
2722 Shawn Drive  
Denison, TX 75020

Employer

A. N. Clanton, D.O.  
213 North Barrett Street  
Denison, TX 75020

Appellant:	<input type="checkbox"/> Employer	<input checked="" type="checkbox"/> Claimant
Claimant's S.S. No.:	[REDACTED]	
Decision No.:	UI-74-3319	
Date Deputy's Determination:	November 19, 1974	
Date Referred or Appealed:	November 26, 1974	
Date of Hearing:	December 19, 1974	
Place of Hearing:	Deniston, Texas	
Date of Decision:	December 26, 1974	
Date of Mailing:	December 26, 1974	

APPEARANCES: Claimant; Three Witnesses for Claimant

STATUTORY PROVISIONS & POINTS AT ISSUE: Code of Virginia § 60.1-58 (a) Did the claimant voluntarily leave her last employment without good cause? § 60.1-52 (g) Has the claimant been available for work during the week or weeks for which she claims benefits?

FINDINGS OF FACT: The claimant appealed from a determination of the Deputy, which disqualified her for benefits effective September 29, 1974, for having left work voluntarily without good cause.

A. N. Clanton, D.O., Denison, Texas, was the claimant's last employer for whom she had worked as a receptionist and clerk in the doctor's office from May 28, 1974, through August 28, 1974.

The claimant, in accordance with instructions and procedures, scheduled patients for treatment commencing at 9:00 A.M. daily. On many occasions the doctor who was her employer did not report to the office until late in the day. She would call his home where it was necessary that he be awakened. The doctor also would report for work sometimes when it was apparent to the claimant that he had been drinking. The doctor's wife had instructed the claimant to tell patients he had been called to the hospital for an emergency when he would leave in the middle of the day and go home while patients were waiting. On one morning when he did come in, the doctor layed down on a couch in his office and went to sleep. The doctor's wife came to the office but would not awaken him, insisting that the claimant do so. The claimant did not want to awaken the doctor because she was afraid of him. When he did wake up at 12:30 P.M., he went home without seeing patients who had been scheduled for treatment and had been present since 9:00 A.M. For these reasons and since the claimant did not want to lie to patients about the matter, she voluntarily resigned from her employment.

The employer was duly notified of the hearing to be held on the claimant's appeal but did not appear or respond to the notice.

The claimant filed a claim for benefits effective September 29, 1974, and continued her claim series through November 9, 1974. During this period, she applied to one employer each week for work.

**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.

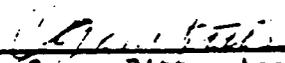
When a job becomes unsuitable, she would have good cause in leaving it. In determining whether any work is suitable, the Commission shall consider, among other things, the conditions of work and the degree of risk involved to her morals. Conditions of work are seldom, if ever, ideal in every respect; and at times a worker is expected to accept the conditions provided they have not reached such a degree of unreasonableness that would impell an ordinarily prudent person to leave her employment. It is apparent from this claimant's testimony that her working conditions had become so intolerable that she could not reasonably be expected to continue. This is especially true where she was expected to cover-up for the employer by making false statements to the employer's patients. In view of this and since the employer did not appear at the hearing furnishing evidence to the contrary, it is concluded that the claimant had good cause in voluntarily leaving her last employment.

§ 60.1-52 (g) of the Virginia Unemployment Compensation Act provides, in part, that in order to be eligible for benefits a claimant must be available for work. Generally, to be considered available for work, among other things, a claimant must show that she is actively and earnestly looking for work.

To apply to only one employer each week during a six weeks period certainly is not the action of an unemployed person who is earnestly and diligently seeking work. It is concluded, therefore, that the claimant has not shown that she was meeting the availability for work requirements of the Virginia Act.

**DECISION:** The determination of the Deputy, disqualifying the claimant for benefits effective September 29, 1974, for having left work voluntarily without good cause, is hereby reversed.

It also is held that the claimant has not met the eligibility requirements of the Act from September 29, 1974, through November 9, 1974, the claim weeks before the Appeals Examiner.

  
Ogene Pitts, Appeals Examiner

OP:reh

NOTE: This decision was affirmed by the Commission in Decision No. 6581-C dated February 20, 1975.