UNEMPLOYMENT COMPENSATION COMMISSION OF VIRGINIA

DECISION OF APPEALS EXAMINER

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Decision No: S-4988-4940

Date: March 15, 1957

VOLUNTARY LEAVING - 510.35
Work, nature of -
Light or heavy

POINTS AT ISSUE

(1) Has the claimant been available for work during the week or weeks for which she claims benefits?

(2) Did the claimant voluntarily quit her employment without good cause?

FINDINGS OF FACT

The claimant appealed from a decision of the Deputy which declared her ineligible for benefits as of January 14, 1957.

The claimant was last employed by C. B. Cones Manufacturing Company, Lynchburg, Virginia, where she worked from May 1, 1942, to March 9, 1956. The claimant was originally employed and worked as a felling operator until sometime in 1952; she was then made a forelady on which job she continued for a period of 2 years and 7 months. In December, 1955, she was again changed to a felling operator and continued on this job until her separation. She quit her job on March 9, 1956, because she felt that the work she was performing was too heavy and was resulting in her having pains in her back and legs. She did not consult a doctor about this condition until sometime in June, 1956, when it was determined that she was suffering from a mild hypertension and mild varicose veins.

Without further employment the claimant filed for benefits on January 14, 1957, and when she was interviewed by the Deputy on January 28, 1957, indicated that she had made no efforts to find employment and further that she could not accept any work paying less than $40.00 per week. At the hearing on her appeal, the claimant testified that between February 4, and February 23, 1957, she had applied to 3 manufacturing plants and to 2 retail stores. From February 23, through March 8, 1957, the claimant was not available for work nor did she report on her claim and file continued claims because of being with a daughter who was ill in Radford, Virginia. From March 8, 1957, to the date of the hearing on her appeal, she had made one further contact with a manufacturing plant. She is available for work only on the first shift and has stated that she could not accept employment paying less than $40.00 per week.

OPINION

Section 60-46 (c) of the Virginia Unemployment Compensation Act provides in part that 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 searching for suitable work and is ready and willing to accept employment without attaching undue restrictions to her employability.

It is evident that the claimant was not meeting the eligibility requirements of the Act during the initial 2 weeks of her claim as she has made no efforts to find employment. Between February 4, and February 23, 1957, the claimant did contact 5 different employers and 3 of these on several occasions; however, 2 of these contacts were to establishments where she could not have accepted employment because of the minimum wage which she has indicated would be acceptable to her. On February 23, to March 8, 1957, the claimant was not available for work because she was visiting a daughter in Radford, Virginia. In view of these facts, it is the opinion of the Examiner that the claimant has not met the eligibility requirements of the Act because of her non-availability, being out of town, and because of her limited efforts to find employment and restrictions placed on her employability.

Section 60-47 (a) of the Virginia Unemployment Compensation Act provides a disqualification of seven weeks and the total amount of potential benefits reduced by seven times the weekly benefit amount, if it is found that an individual quit his last employment without good cause.

Although the claimant, in the instant case, contends that she was forced to give up her former employment because it was injurious to her health, there is nothing in the record to substantiate this fact. She was not advised by a doctor to discontinue her work and she did not, in fact, consult a doctor until approximately 3 months after leaving her job. Although she contends the work was too heavy, by her own testimony she was only required to work and lift only one garment at a time which would indicate that no heavy lifting was involved. Therefore, it can only be concluded by the Examiner that it was an assumption on the part of the claimant that the work was too heavy for her and was causing her discomfort and that this would not be for good cause within the meaning of that term as used in the Act. The claimant will, therefore, be subject to the disqualification provisions of the above-mentioned Section of the Law. (Underscoring supplied)

DECISION

The decision of the Deputy is hereby affirmed. It is held that the claimant has not met the eligibility requirements of the Act from January 14, 1957, through March 13, 1957, the date of the hearing before the Examiner.

It is also held that, in the event the claimant should ever meet the eligibility requirements and there has been no intervening employment within the meaning of that term as used in the Act, she shall be disqualified for seven weeks and her potential benefits reduced by seven times the weekly benefit amount, for having left work voluntarily without good cause.