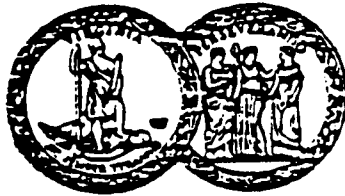


COMMONWEALTH OF VIRGINIA
VIRGINIA EMPLOYMENT COMMISSION



DECISION OF COMMISSION

In the Matter of

Argie L. Versner
████████████████████

Hampton General Hospital
Hampton, Virginia 23661

Date of Appeal
To Commission: May 8, 1981

Date of Hearing: January 26, 1982

Decision No.: 16266-C

Date of Decision: March 12, 1982

Place: Richmond, Virginia

This is a matter before the Commission on appeal by the employer to a decision of the Appeals Examiner (No. UI-81-4025), mailed April 21, 1981.

ISSUE

Did the claimant leave work voluntarily without good cause as provided in Section 60.1-58(a) of the Code of Virginia (1950), as amended?

FINDINGS OF FACT

Hampton General Hospital was the claimant's last employer where she had worked from October 13, 1967, through February 25, 1981.

In 1978, the claimant had been promoted to the position of food service supervisor, with administrative responsibilities for the serving line in the employer's cafeteria. She was being paid \$5.14 per hour in that position. The employer presented testimony, which was not contradicted by the claimant, that they had counselled with the claimant on several occasions for her unsatisfactory performance of her duties in the position of food service supervisor. The employer determined that the claimant was not suited for her supervisory

position so the claimant was informed that she was going to be demoted to the newly-created position of menu hostess coordinator. The new position paid the prevailing wage for similar work in the locality, \$4.13 per hour.

The claimant originally stated that she would work out a two-week notice but when the employer told her she would not be allowed to continue in her supervisory duties, she left without working the notice. The claimant told the employer that she could not accept a \$1.00 per hour cut in pay so she had to leave.

OPINION

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

The Appeals Examiner correctly pointed out in his decision that when an employer changes the work and the new work is unsuitable for an individual, that person would have good cause for voluntarily leaving it.

In the present case, the employer had made a determination that the claimant was not satisfactorily performing her duties as a supervisor and after repeated counselling with the claimant decided that the claimant should be put in another job. The Commission notes that the claimant did not dispute the testimony of the employer that she was not satisfactory in the performance of her supervisory duties. Accordingly, the Commission is of the opinion that the employer's decision to change the claimant's duties to a position in which she was more capable of performing was not arbitrary or capricious but founded upon sound business principles. It would also appear that an employer has the prerogative to make such determinations as to where his personnel can be more effectively utilized.

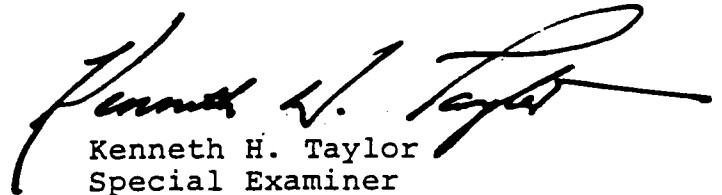
It is also noted that the position offered the claimant was expressly created for her with her background in food service with the hospital. The job did pay the prevailing wage for similar work in the locality even though it may have been less than the claimant was previously making in her supervisory position. Since the job did pay the prevailing wage, it was not unsuitable by virtue of the rate of pay. The claimant's disappointment over her demotion was understandable, yet it would appear that a reasonable person in the claimant's position faced with unemployment

would have accepted the new work and attempted to perform it while looking for other work which she considered more commensurate with her prior experience. This would have prevented her from being subjected to the risks of unemployment and would have provided suitable work for her.

In view of the foregoing, it is the opinion of the Commission that the work offered the claimant was not unsuitable and her leaving of it without prospects of employment elsewhere was without good cause as that term is used in the Act.

DECISION

The decision of the Appeals Examiner is hereby reversed. It is held that the claimant is disqualified effective February 22, 1981, 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.


Kenneth H. Taylor
Special Examiner