

UNEMPLOYMENT COMPENSATION COMMISSION OF VIRGINIA

DECISION OF COMMISSIONER

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Decision No: 3251-C

Date: July 10, 1958

VOLUNTARY LEAVING - 135.2
Discharge or leaving:
Interpretation of remark or
action of employer or employee.

This is a matter before the Commission on appeal by the claimant from the decision of the Examiner (No. S-6659-6637) dated June 17, 1958.

ISSUE

Did the claimant voluntarily quit his employment without good cause?

OPINION AND DECISION

The Examiner's findings of fact recorded in his decision in this case are substantiated by the record and are hereby adopted for the purposes of this decision.

The sole issue to be determined is whether or not the claimant voluntarily left his last employment without good cause. The evidence as to the conversation which took place between the claimant and the employer immediately preceding the separation is in conflict. The claimant contends that he was told that if he had to be off again to go to the doctor whom he had been seeing periodically ". . . he might as well stay." The claimant further contends that his next appointment was to occur approximately a week later and hence he felt he was destined for certain discharge.

Even considering all of the evidence in the light most favorable to the claimant's contentions, this Commission must still conclude that the disqualification under Section 60-47 (a) was proper.

Cases where an individual leaves his work in anticipation of being discharged at some future date are not new to this Commission. In such cases the holdings have established the principle that an anticipated discharge is not a discharge in fact, and if the claimant elects to leave before the discharge actually occurs he does so voluntarily. The threat of discharge is sometimes used to warn or exhort an employee, but the threat is not tantamount to actual discharge. (Underscoring supplied.)

The fact is certain that the claimant could have continued working in the instant case had he not elected to leave.

For the reasons stated the decision of the Appeals Examiner was proper and the same is hereby sustained and affirmed.