

COMMONWEALTH OF VIRGINIA  
VIRGINIA EMPLOYMENT COMMISSION

VOLUNTARY LEAVING: 150.15  
Distance to work --  
Removal from Locality.



DECISION OF COMMISSION

In the Matter of

James R. French  
[REDACTED]

Ryan Homes  
Pittsburg, PA 15205

Date of Appeal  
To Commission: November 4, 1983  
Date of Hearing: February 7, 1984  
Place: RICHMOND, VIRGINIA  
Decision No.: 22406-C  
Date of Decision: March 25, 1984  
Date of Mailing: March 29, 1984  
Final Date to File Appeal  
with Circuit Court: April 18, 1984

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This matter comes before the Commission on appeal by the claimant from the decision of the Appeals Examiner (UI-83-9490), dated October 14, 1983.

APPEARANCES

Claimant; Attorney for Claimant; Representative for Employer

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

Ryan Homes was the claimant's last employer, where he had worked as a plumber from August 10, 1972, through September 2, 1983. At the time of his separation, he was earning \$7.75 per hour and working 7:00 a.m. to 3:35 p.m., Monday through Friday.

The claimant began his employment at the employer's plant

in Fredericksburg, Virginia. In December of 1982, the employer closed the plant in Fredericksburg, Virginia, because of a shift in the market area and because the employer's plant in Thurmont, Maryland, was newer and had incorporated many design features that the company needed. The claimant was advised, in December of 1982, that he had the option of accepting a transfer to Thurmont, Maryland, to the new plant, or he could be laid off and draw unemployment.

The claimant owns his own home in Fredericksburg and he told the employer, "I will try, if I can make it, I'll stay, but if I couldn't, I would quit. . . ." (transcript page 16).

The claimant accepted a \$900 relocation allowance to move to Maryland from Fredericksburg, Virginia. He began working at the Thurmont, Maryland, plant, and he rented an apartment in Maryland for that purpose. The claimant had difficulty selling his house and he could not afford to rent in Maryland, as well as pay the mortgage on his house in Virginia, so he ultimately quit his job.

Counsel for the claimant argues that the claimant did not accept the distance from his Fredericksburg home to Maryland by working for nine months, because he advised his employer that he would try to see if he could make it. Counsel argues that the claimant's acceptance of the transfer was a conditional one and since he was unable to sell his home, he could not afford to make his house payment and pay rent in Maryland, so he left with good cause.

#### 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.

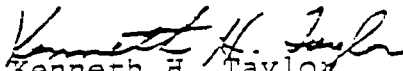
The Commission has recognized that an individual would have good cause for voluntarily leaving work which has become unsuitable to him. In determining suitability of work offered an individual, the Statute requires the Commission to consider, among other things, the accessibility of the work offered the claimant to his residence. If the work is not reasonably accessible from the claimant's residence, he would have good cause for voluntarily leaving it as it would be deemed unsuitable.

In the case presently under consideration, the claimant was given an option of either accepting, unconditionally, a transfer to Maryland or being laid off and going on unemployment compensation. The Commission notes that the record in no way supports the claimant's argument that his acceptance of the transfer was a conditional one.

The testimony of the employer's representative was clear and unambiguous that the claimant had a choice in December of 1982 of either accepting the transfer or being laid off. The Commission notes that the claimant accepted the transfer, as well as a \$900 relocation allowance, which was paid to him for the express purpose of relocating him to the Maryland area so that the work would be accessible from his residence. While the Commission sympathizes with the claimant that he may have had difficulty in selling his home in Virginia, the claimant, having accepted the transfer to Maryland and having worked in the job for approximately nine months, would be estopped from raising the objection that the work was not suitable as it was not accessible to him. Since the claimant was performing the same work for the same rate of pay and since he had been relocated by his employer, after accepting the transfer, it cannot be maintained that the work which the claimant left was unsuitable to him in any way. Accordingly, the claimant's decision to leave was for personal reasons, which did not constitute good cause as that term is used in the Act. (Underscoring supplied)

#### DECISION

The decision of the Appeals Examiner which disqualified the claimant for benefits for having left work voluntarily without good cause is hereby affirmed.

  
Kenneth H. Taylor  
Special Examiner