



DECISION OF COMMISSION

In the Matter of:

Margaret Randall
[REDACTED]

American Systems Corporation
Annandale, VA 22003

INTERSTATE

Date of Appeal to Commission: December 10, 1986

Date of Review: January 20, 1987

Place: RICHMOND, VIRGINIA

Decision No.: 28029-C

Date of Mailing: January 23, 1987

Final Date to File Appeal
with Circuit Court: February 12, 1987

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This matter comes before the Commission as a result of an appeal filed by the claimant from the decision of the Appeals Examiner (UI-86-8691), dated November 21, 1986.

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

The claimant appealed from a decision of the Appeals Examiner which held that she was disqualified for benefits effective September 21, 1986, because she voluntarily left her employment without good cause.

The claimant was last employed as a contract analyst by American Systems Corporation of Annandale, Virginia, from February 17, 1986, until May 15, 1986.

In April, 1986, the claimant's husband, who serves in the United States Marine Corps, received orders which transferred his duty station from Quantico, Virginia, to the 1st Marine Amphibious Brigade, MCAS,

Kaneohe Bay, Hawaii. Although he was originally directed to report to his new duty station in July, 1986, these orders were later modified and he did not actually leave Virginia until sometime in August, 1986. In the meantime, the claimant gave her employer three weeks' notice of her intent to resign. Her primary reason for leaving her job was her desire to relocate with her husband and their family to Hawaii. At the time she left, her employer had work available for her.

OPINION

Section 60.1-58(a) of the Code of Virginia (1950), as amended, provides in pertinent part for a disqualification if it is found that an individual has voluntarily left her employment without good cause.

The aforementioned Section further provides in part as follows:

"As used in this chapter, the term 'good cause' shall not include . . . (ii) the voluntary leaving of work with an employer to accompany or to join his or her spouse in a new locality."

In this case, it has been argued on the claimant's behalf that the claimant was forced to terminate her employment in Virginia because her husband had official orders from the United States government to relocate to Hawaii, and in that sense, she did not voluntarily choose to leave her job. In considering whether a separation from employment is voluntary on the part of the claimant, the Commission must determine whether the claimant or the employer was responsible for severing the employer/employee relationship. When the employer initiates the break in the relationship as in the case of a discharge from employment, the separation is deemed to be involuntary on the claimant's part. Regardless of her reasons for doing so, if the claimant makes the decision to end her employment, then the separation must be characterized as voluntary within the meaning of the aforementioned Section of the Code.

While she made her decision under what she considered to be compelling circumstances, it is clear that as between the parties, the claimant was responsible for initiating the break in the employer/employee relationship. Thus, notwithstanding her reasons for doing so, her separation from employment is deemed voluntary. Further, the uncontradicted evidence establishes that she left her job in order to relocate with her spouse to his new duty station. Inasmuch as the aforementioned statute specifically excludes the voluntary leaving of work with an employer in order to accompany a spouse to a new locality, the Commission has no alternative but to find that the claimant is subjected to that disqualifying provision of the Code. (Underscoring supplied)

DECISION

The decision of the Appeals Examiner is hereby affirmed.

It is held the claimant is disqualified for benefits effective September 21, 1986, because she left work voluntarily without good cause. Such disqualification is to remain in effect for any week or weeks benefits are claimed until such time as the claimant has performed services for an employer during thirty days, whether or not such days are consecutive.



Patrice Taylor Johnson
Special Examiner