

COMMONWEALTH OF VIRGINIA
VIRGINIA EMPLOYMENT COMMISSION



VOLUNTARY LEAVING: 515.5
Working conditions-
Morals.

DECISION OF COMMISSION

In the Matter of

Charles T. Caprino, Claimant
[REDACTED]

Jerry's Ford Sales, Inc.
Annandale, Virginia

Employer

Date of Appeal

To Commission: September 3, 1974

Date of Hearing: November 21, 1974

Decision No.: 6534 -C

Date of Decision: January 2, 1975

Place: Richmond, Virginia

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This is a matter before the Commission on appeal by the claimant from the decision of the Examiner (No. UI-74-2002), dated August 26, 1974.

ISSUE

Did the claimant voluntarily leave his last employment without good cause within the meaning of § 60.1-58 (a) of the Code of Virginia (1950), as amended?

FINDINGS OF FACT AND OPINION

The claimant was last employed as an automobile salesman by Jerry's Ford Sales, Inc., and had worked for this employer from April 22, 1974, through June 21, 1974.

The claimant resigned his position with this employer for several reasons. Some of these were that during the last several weeks potential sales were disapproved by sales managers, that he was cursed and ridiculed by sales managers in front of his customers, he was asked to "bump" the price up on cars once they were delivered even though a lower price had been agreed on previously and approved by the sales managers, he was required to work ten to twelve hours each day and nine hours on Saturday, salesmen were required to provide gas for demonstration cars which were assigned to them, there were too many bosses and no definite chain of authority, and in sales meetings he was instructed to lie to customers about prices, colors and availability of cars.

The claimant gave two specific instances of "bumping" the price of cars. In the first, a contract had been signed with a customer guaranteeing him against any price increase. Between the time of the contract and delivery, the price increased and the claimant was instructed to bump the price and pass the increase to the customer in the amount of \$50 to \$100. However, the claimant did not consummate the order as he resigned before delivery. In another instance, an order was placed by a lady with the claimant for a car with no white sidewall tires. When the car arrived it was equipped with white sidewall tires. The Manager instructed the claimant that the lady would have to pay for the white sidewalls or she could not have the car. The claimant paid for the additional cost out of his pocket in order that his word of honor would not be violated. For this he was criticized by management.

Additionally, the claimant stated that at a sales meeting the salesmen were instructed that if a salesman pointed out a defect that was not discovered by the customer, then the salesman would have to pay the cost of repair. Also, the claimant was instructed to tell customers that he had certain colors of cars even if he didn't. This was done in order to get the customer into the showroom in an effort to then get the customer to make a purchase.

The employer has stated that the claimant resigned stating that the automobile business was too rough or brutal for him. The employer indicated that the claimant felt that he could not get used to the system and that he thought that he did not belong in the automobile business. The employer representative did not deny that the claimant was instructed to bump the price on cars that had been sold or that the claimant had been instructed to tell customers that certain colored cars were available when they were not.

Section 60.1-58 (a) of the Virginia Unemployment Compensation Act provides a disqualification if it is found that a claimant left work voluntarily without good cause.

In construing the meaning of "good cause" it has been repeatedly held in past decisions that evidence that a particular type of work is detrimental to a claimant's health manifestly renders such work unsuitable for a claimant and hence the claimant has good cause to leave it. An examination of § 60.1-58 (c) will reveal that in determining whether any work is suitable for an individual the Commission shall consider the degree of risk to his morals. Obviously, if the work presents a detrimental effect on one's morals, it would not be suitable with respect to § 60.1-58 (c). Likewise, if evidence reveals that some aspect of work is detrimental to a claimant's morals, then such work is unsuitable for the claimant and he has good cause to leave work within the meaning of § 60.1-58 (a) of the Virginia Unemployment Compensation Act.

In the present case, the claimant has given testimony about "bumping" practices, about instructions to breach contracts or to attempt to breach contracts, and instructions to state that certain types of cars were available when, in fact, they were not. This testimony before the Commission was uncontroverted and as such ought to be taken as true unless it is inherently improbable, unreasonable, self-contradictory, or inconsistent with the facts or circumstances in evidence. The employer's representative was present and failed to deny these allegations by the claimant but simply stated that the automobile business was a "brutal" business.

While such practices might be "normal" or "usual" business practices in that trade, it does not necessarily follow that they will pass muster as honest or moral practices. Accordingly, in view of the uncontroverted evidence before the Commission, the Commission must conclude that the practices alleged by the claimant did occur and made his employment unsuitable for him in that there was a risk of a detrimental effect on his morals. Therefore, no disqualification will lie under § 60.1-58 (a) in that he did leave work voluntarily but did so with good cause.

DECISION

The decision of the Appeals Examiner is reversed. In view of the fact that one time during his claim for unemployment compensation he did report himself as being self-employed and that he later obtained employment in Ohio, the deputy is directed to scrutinize his claim in order to determine if he has met the eligibility requirements of the Act for the weeks benefits are claimed.



B. Redwood Councill
Assistant Commissioner