

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0940-R

Affirmed
Disqualification

PROCEDURAL HISTORY: On May 5, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 131127). Claimant filed a timely request for hearing. On May 21, 2014, ALJ S. Lee conducted a hearing, and on May 29, 2014 issued Hearing Decision 14-UI-18605, affirming the Department's decision. On June 2, 2014, claimant filed an application for review with the Employment Appeals Board (EAB). On July 7, 2014, EAB issued Appeals Board Decision 14-EAB-0940, remanding this matter to the Office of Administrative Hearing (OAH) for want of a complete record for review. On July 9, 2014, OAH transmitted a complete record and this matter returned to EAB.

Claimant submitted a written argument to EAB in which he contended, in essence, that he had good cause to voluntarily leave work to accept a contingent written offer of a new job. Claimant argued that under the circumstances, a reasonable and prudent person would have concluded that, despite the apparent contingency, the offer of the new job was definite and a certain. OAR 471-030-0038(5)(a) (August 3, 2011) states that, when a claimant leaves work to accept an offer of other work, good cause for leaving exists only if, among other things, the offer is "definite." This requirement of definiteness is not nuanced, and the plain language of the regulation requires that the offer must be definite in its objective terms. The Department's Benefits Manual states that a job offer is not definite within the meaning of OAR 471-030-0039(5)(a) if it is "contingent on anything." Benefits Manual (rev. April 2, 2013), Ch. 400 §422(B). EAB has consistently applied the Department's strict definition in determining whether a job offer is definite. *See e.g. Elijah J. Deruiter-Sechrist* (Employment Appeals Board, 2014-EAB-0320, March 20, 2013). While claimant might have reasonably thought that, based on the particular circumstances before him, all contingencies to the offer had been satisfied at the time that he accepted that offer and quit work, by its written terms the offer of the new job remained "subject to [the new employer] receiving acceptable results from reference and limited background checks." Exhibit 1 at 19. Because the written offer of new work was subject to a stated contingency, we agree with the ALJ

that it was not definite and that, applying OAR 471-030-0038(5)(a), the only conclusion that can be drawn is that claimant voluntarily left work without good cause.

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), the hearing decision under review is **adopted**.

DECISION: Hearing Decision 14-UI-18605 is affirmed.

Susan Rossiter and J. S. Cromwell;
Tony Corcoran, not participating.

DATE of Service: August 14, 2014

NOTE: You may appeal this decision by filing a Petition for Judicial Review with the Oregon Court of Appeals within 30 days of the date of service listed above. *See* ORS 657.282. For forms and information, you may write to the Oregon Court of Appeals, Records Section, 1163 State Street, Salem, Oregon 97310 or visit the website at court.oregon.gov. Once on the website, click on the blue tab for “Materials and Resources.” On the next screen, click on the tab that reads “Appellate Case Info.” On the next screen, select “Appellate Court Forms” from the left panel. On the next page, select the forms and instructions for the type of Petition for Judicial Review that you want to file.

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