

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-1039

Affirmed
Disqualification

PROCEDURAL HISTORY: On September 21, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant quit working for the employer without good cause (decision # 75539). Claimant filed a timely request for hearing. On October 23, 2018, ALJ Shoemake conducted a hearing, and on October 26, 2018 issued Order No. 18-UI-118783, affirming the Department's decision. On November 5, 2018, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Iron Horse Contracting, Inc. employed claimant as a delivery driver from July 18, 2018 to August 4, 2018.

(2) The first day claimant worked, he rode along with an experienced driver for training. Thereafter, claimant was trained while acting as a "jumper" for an injured driver on a different route. Claimant was trained by the injured driver for a little over two weeks. The injured driver was one of the employer's best drivers.

(3) On August 4, 2018, claimant reported for work learned that he would not be in training that day, but would work alone delivering packages on a route with which he was not familiar. Claimant felt that he was not adequately trained on that route and expressed to a co-owner that he was not ready to work alone. The co-owner told claimant that the employer thought he was ready and that the other co-owner, Z, who was also driving a delivery route that day, would be available by cell phone to answer any questions that claimant had or provide any assistance he needed. Claimant left to handle the route.

(4) Claimant began the route and successfully made two deliveries. On one of those deliveries, claimant had questions and contacted Z, who gave claimant the help that he needed. As claimant proceeded to make the third delivery, the GPS unit in his vehicle began malfunctioning and directing him to drive in circles rather than to the inputted destination address. Claimant shut down and rebooted the GPS several times, but it continued to malfunction. Claimant inputted different destination addresses, but the GPS still malfunctioned. Because claimant was unfamiliar with that route and its geographic area, he was unable to make the assigned deliveries without an accurately working GPS. Claimant tried to contact Z for assistance by voice and by text, but Z did not immediately respond.

(5) When Z failed to respond promptly to claimant's attempts to contact him, claimant did not ask for help from the driver who had trained him or from any other manager or employer representative. Approximately 2 to 2 ½ hours into his shift on August 4, claimant decided that he was going to quit work because he was very upset. Claimant thought the employer had assigned him to a route for which he was not prepared and had failed to provide him the necessary training or support. Claimant sent a text message to the other co-owner telling that co-owner that Z was not answering his phone, that the employer had "thrown him to the wolves" and that he did not know what to do. Audio at ~25:00. Around that time, claimant received a text message from Z apologizing for his delay in responding and stating that he had been driving when claimant had tried to reach him. Claimant did not reply to Z's text message because he had already decided to quit. Instead, claimant drove to the employer's hub.

(6) Upon reaching the hub, claimant parked the employer's delivery truck and left the keys in the ignition. Although claimant did not tell any employer representative that he was quitting work, it was his intention to do so. Claimant left the workplace and did not return. On August 4, 2018, claimant voluntarily left work.

CONCLUSIONS AND REASONS: Claimant voluntarily left work without good cause.

A claimant who leaves work voluntarily is disqualified from the receipt of benefits unless he proves, by a preponderance of the evidence, that he had good cause for leaving work when he did. ORS 657.176(2)(c); *Young v. Employment Department*, 170 Or App 752, 13 P3d 1027 (2000). "Good cause" is defined, in relevant part, as a reason of such gravity that a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would have no reasonable alternative but to leave work. OAR 471-030-0038(4) (January 11, 2018). The standard is objective. *McDowell v. Employment Department*, 348 Or 605, 612, 236 P3d 722 (2010). A claimant who quits work must show that no reasonable and prudent person would have continued to work for his employer for an additional period of time.

While claimant may have felt frustrated and thought that he had not received sufficient training and support from the employer to reasonably expect him to drive a route without an accurately functioning GPS, he did not show that his circumstances were objectively grave when he decided to quit work on August 4. Claimant did not dispute that, had he responded to Z's text message on August 4 and told Z of the problem with the GPS, Z would have provided assistance, including giving claimant a functioning GPS from another of the employer's trucks or, if none were available, then purchasing a new GPS for him. Audio at ~28:05, ~32:15. Claimant did not show that being without a functioning GPS relatively early in his shift was a circumstance such that a reasonable and prudent person would not have waited an additional period of time for a response and help from Z, or that grave factors required him to immediately leave work without a waiting longer. Even had Z not responded to claimant's messages, claimant did not show that negative consequences would have resulted to him if he had left the route, which he could not drive due to the malfunctioning GPS, travelled to the hub and waited for an employee or manager to appear there who could assist him. Claimant did not present evidence showing how, more likely than not, his lack of GPS on August 4 harmed him or gave rise to an objectively grave situation to which he had no alternative other than to leave work.

Claimant did not show that he had good cause to leave work when he did. Claimant is disqualified from receiving unemployment insurance benefits.

DECISION: Order No. 18-UI-118783 is affirmed.

J. S. Cromwell and D. P. Hettle;
S. Alba, not participating.

DATE of Service: December 6, 2018

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 Court of Appeals website at courts.oregon.gov. Once on the website, use the ‘search’ function to search for ‘petition for judicial review employment appeals board’. A link to the forms and information will be among the search results.

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Understanding Your Employment Appeals Board Decision

English

Attention – This decision affects your unemployment benefits. If you do not understand this decision, contact the Employment Appeals Board immediately. If you do not agree with this decision, you may file a Petition for Judicial Review with the Oregon Court of Appeals following the instructions written at the end of the decision.

Simplified Chinese

注意 – 本判決會影響您的失業救濟金。如果您不明白本判決，請立即聯繫就業上訴委員會。如果您不同意此判決，您可以按照該判決結尾所寫的說明，向俄勒岡州上訴法院提出司法複審申請。

Traditional Chinese

注意 – 本判決會影響您的失業救濟金。如果您不明白本判決，請立即聯繫就業上訴委員會。如果您不同意此判決，您可以按照該判決結尾所寫的說明，向俄勒岡州上訴法院提出司法複審申請。

Tagalog

Paalala – Nakakaapekto ang desisyong ito sa iyong mga benepisyo sa pagkawala ng trabaho. Kung hindi mo naiintindihan ang desisyong ito, makipag-ugnayan kaagad sa Lupon ng mga Apela sa Trabaho (Employment Appeals Board). Kung hindi ka sumasang-ayon sa desisyong ito, maaari kang maghain ng isang Petisyon sa Pagsusuri ng Hukuman (Petition for Judicial Review) sa Hukuman sa Paghahabol (Court of Appeals) ng Oregon na sinusunod ang mga tagubilin na nakasulat sa dulo ng desisyong ito.

Vietnamese

Chú ý - Quyết định này ảnh hưởng đến trợ cấp thất nghiệp của quý vị. Nếu quý vị không hiểu quyết định này, hãy liên lạc với Ban Kháng Cáo Việc Làm ngay lập tức. Nếu quý vị không đồng ý với quyết định này, quý vị có thể nộp Đơn Xin Tái Xét Tư Pháp với Tòa Kháng Cáo Oregon theo các hướng dẫn được viết ra ở cuối quyết định này.

Spanish

Atención – Esta decisión afecta sus beneficios de desempleo. Si no entiende esta decisión, comuníquese inmediatamente con la Junta de Apelaciones de Asuntos Laborales. Si no está de acuerdo con esta decisión, puede presentar una Petición de Revisión Judicial ante el Tribunal de Apelaciones de Oregon siguiendo las instrucciones escritas al final de la decisión.

Russian

Внимание – Данное решение влияет на ваше пособие по безработице. Если решение Вам непонятно – немедленно обратитесь в Апелляционный Комитет по Трудоустройству. Если Вы не согласны с принятым решением, вы можете подать Ходатайство о Пересмотре Судебного Решения в Апелляционный Суд штата Орегон, следуя инструкциям, описанным в конце решения.

Khmer

ចំណុចសំខាន់ – សេចក្តីសម្រេចនេះមានផលប៉ះពាល់ដល់អត្ថប្រយោជន៍គ្មានការងារធ្វើរបស់លោកអ្នក។ ប្រសិនបើលោកអ្នកមិនយល់អំពីសេចក្តីសម្រេចនេះ សូមទាក់ទងគណៈកម្មការឧទ្ធរណ៍ការងារភ្លាមៗ។ ប្រសិនបើលោកអ្នកមិនយល់ស្របចំពោះសេចក្តីសម្រេចនេះទេ លោកអ្នកអាចដាក់ពាក្យប្តឹងសុំឲ្យមានការពិនិត្យរឿងក្តីឡើងវិញជាមួយតុលាការឧទ្ធរណ៍រដ្ឋ Oregon ដោយអនុវត្តតាមសេចក្តីណែនាំដែលសរសេរនៅខាងចុងបញ្ចប់នៃសេចក្តីសម្រេចនេះ។

Laotian

ເອົາໃຈໃສ່ – ຄໍາຕັດສິນນີ້ມີຜົນກະທົບຕໍ່ກັບເງິນຊ່ວຍເຫຼືອການຫວ່າງງານຂອງທ່ານ. ຖ້າທ່ານບໍ່ເຂົ້າໃຈຄໍາຕັດສິນນີ້, ກະລຸນາຕິດຕໍ່ຫາຄະນະກຳມະການອຸທອນການຈ້າງງານໃນທັນທີ. ຖ້າທ່ານບໍ່ເຫັນດີນຳຄໍາຕັດສິນນີ້, ທ່ານສາມາດຍື່ນຄໍາຮ້ອງຂໍການທົບທວນຄໍາຕັດສິນນຳສານອຸທອນລັດ Oregon ໄດ້ໂດຍປະຕິບັດຕາມຄໍາແນະນຳທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄໍາຕັດສິນນີ້.

Arabic

هذا القرار قد يؤثر على منحة البطالة الخاصة بك، إذا لم تفهم هذا القرار، إتصل بمجلس منازعات العمل فوراً، و إذا كنت لا توافق على هذا القرار، يمكنك رفع شكوى للمراجعة القانونية بمحكمة الاستئناف بأوريغون و ذلك بإتباع الإرشادات المدرجة أسفل القرار.

Farsi

توجه - این حکم بر مزایای بیکاری شما تاثیر می گذارد. اگر با این تصمیم موافق نیستید، بلافاصله با هیأت فرجام خواهی استخدام تماس بگیرید. اگر از این حکم رضایت ندارید، می‌توانید با استفاده از دستور العمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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