

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-1150

Affirmed
Disqualification

PROCEDURAL HISTORY: On October 29, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 112739). Claimant filed a timely request for hearing. On November 29, 2018, ALJ Shoemake conducted a hearing, and on December 4, 2018 issued Order No. 18-UI-120687, affirming the Department's decision. On December 12, 2018, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Northwest Senior & Disability Services employed claimant as a bilingual case manager from October 1, 2013 to September 28, 2018.

(2) In October 2017, the state mandated some changes in case management protocols that resulted in additional work for each case manager and, around June 2018, claimant's office experienced case manager departures that resulted in the distribution of additional cases to the other case managers, including claimant. In light of the changed protocols and increased caseload, claimant experienced increasing difficulty in performing his work responsibilities that caused him substantial stress as he attempted to meet the employer's expectations. Claimant was aware that his program manager expected claimant and the other case managers to report to him any difficulties being experienced in managing their caseloads to allow a redistribution of cases as appropriate. Claimant did not report such difficulties to his manager.

(3) In March 2018, claimant's manager gave claimant a memorandum of expectations for failing to meet specified performance expectations. Exhibit 1. To assist claimant, claimant's manager provided claimant with some assistance in completing some of his case responsibilities. In July 2018, claimant's manager gave claimant a verbal warning concerning continuing inconsistencies in performing some work duties. To assist claimant at that time, claimant's manager provided additional support from other workers, time management coaching and the option to work out of another office one day a week to cut down on his commute time, which option claimant never implemented. Exhibit 1.

(4) Between October 2017 and September 2018, claimant's increased work responsibilities and performance expectations caused claimant significant work stress, which caused him sleeping difficulties and negatively affected his mood and overall mental health. The effects of claimant's stress on his health caused claimant to consider utilizing the employer's employee assistance program but he decided against it because he believed it would be recommended that he consider obtaining a medication prescription to treat his stress and he did not want to take medication. Despite claimant's health concerns, claimant did not seek medical treatment or the assistance of any medical professional to obtain a medical recommendation to address his stress and physical and mental concerns.

(5) Claimant did not seek any protected medical leave from work or a medical accommodation for his stress although claimant was aware that both of those options were potentially available to him. Nor did claimant discuss with his manager the effects claimant's work responsibilities were having on his health.

(6) On September 18, 2018, claimant submitted a written resignation notice to his program manager advising the employer that he was leaving work effective September 28, 2018. Claimant quit work on September 28, 2018 because of the amount of stress he was experiencing over the extent of his caseload and amount of work he was expected to perform. Claimant did not advise the employer of the reason he was resigning.

(7) Continuing work was available to claimant when he quit.

CONCLUSIONS AND REASONS: We agree with the ALJ. Claimant voluntarily left work without good cause.

A claimant who leaves work voluntarily is disqualified from the receipt of benefits unless he (or she) 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 the employer for an additional period of time.

Claimant quit work because of the amount of stress he was experiencing over the extent of his caseload, the amount of work he was expected to perform and his continuing difficulties in meeting his performance expectations. Claimant asserted that due to his work stress he was experiencing insomnia, mood swings and a decrease in his overall mental health. However, he admitted that he never requested a reduction in his caseload, or sought medical treatment for his health difficulties or the advice or assistance of a mental health counselor which was available to him through the employer's employee assistance program. Transcript at 7-10. Although the nature of the work and the circumstances described by claimant were undoubtedly stressful, he did not assert or show that he made his own attempt to mitigate or modify his work duties by discussing his difficulty in performing them with his manager. *Id.* Even after he was given a memorandum of expectations and a verbal warning, the record fails to show that he availed himself of some of the assistance offered to him by the program manager, such as the option to work out of another office closer to his home to reduce his commute time. Moreover, claimant

was aware of other assistance offered by the employer's employee assistance program, and he chose not to avail himself of those options. Viewing the record as a whole, claimant failed to show that his concerns that caused him to quit work on September 28, 2018 were of such gravity that no reasonable and prudent person would have availed himself of the options available to him through his employment to reduce his work stress, or sought the assistance and recommendation of a medical professional while continuing to work for the employer for an additional period of time.

Claimant voluntarily left work without good cause and is disqualified from receiving unemployment insurance benefits until he requalifies for benefits by earning at least four times his weekly benefit amount from work in subject employment.

DECISION: Order No. 18-UI-120687 is affirmed.

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

DATE of Service: January 8, 2019

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

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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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