

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-1179

Affirmed
Disqualification

PROCEDURAL HISTORY: On October 25, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 82938). Claimant filed a timely request for hearing. On December 6, 2018, ALJ Janzen conducted a hearing, and on December 7, 2018 issued Order No. 18-UI-120926, affirming the Department's decision. On December 21, 2018, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Women's Coalition of Josephine County employed claimant from 2007 until July 31, 2018, last as a domestic violence and sexual abuse advocate on its Women's Crisis Support Team. Claimant's worked out of a facility operated by Department of Human Resources (DHS).

(2) As an advocate, claimant was required to have transportation that would allow her to respond to crisis situations when she was on-call. Sometime during claimant's employment, claimant was unable to use her own vehicle for six months and had to rent one when she was assigned to respond to crisis calls. This caused financial hardship to claimant.

(3) In 2017, claimant became aware that a supervisor had drug and alcohol abuse problems that claimant believed were significantly impairing the supervisor's job performance. Claimant reported the supervisor's problems to the employer. The employer issued corrective actions to the supervisor in an attempt to address the supervisor's substance abuse issues. Around approximately August 2017, the employer let the supervisor go due to inadequate job performance.

(4) In 2017 or 2018, claimant became concerned that one of the supervisors was misusing confidential information. Claimant believed that the supervisor had gained access to confidential information in the workplace to address issues with a client outside of the workplace that also were outside the scope of the supervisor's job duties. Claimant reported her concerns to the executive director. The executive director spoke with the supervisor and the client about appropriate use of confidential information. No further

reports about the misuse of confidential information by the supervisor were made to the executive director.

(5) Around 2018, the DHS division out of which claimant worked moved to a new building. As a result of this move and the hiring of new managers, claimant was assigned to a cubicle and no longer had an enclosed office that allowed her to meet in private with clients. Claimant told the employer that she thought meeting with clients in a non-private setting would cause her to breach client confidentiality. The executive director met with DHS leadership to address claimant's concerns. As a result, DHS made meeting rooms available to claimant for purposes of meeting in private with clients.

(6) Around approximately 2018, DHS changed its state-wide practice to eliminate the access of all co-located advocates, like claimant, to its electronic information systems. As a result, claimant needed to ask clients for information that they had already provided to DHS employees because she no longer was able to view entries DHS employees made in the information system. DHS also changed other of its state-wide practices, stopped providing business cards to co-located advocates, and stopped allowing co-located advocates to use stationary with DHS's letterhead. DHS did so because it did not want to give the impression that the co-located advocates were DHS or State of Oregon employees. The employer provided claimant with business cards and stationary that identified her as an employee of the employer.

(7) On around June 26 or 28, 2018, claimant notified the employer that she was quitting work at the end of July 2018. In that notice, claimant did not specify why she was resigning.

(8) On July 31, 2018, claimant voluntarily left work. Claimant's stated reasons for leaving work were the incidents described above.

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

A claimant who leaves work voluntarily is disqualified from the receipt of benefits unless she proves, by a preponderance of the evidence, that she had good cause for leaving work when she 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 her employer for an additional period of time.

The reasons claimant gave for leaving work were broad-ranging. For a six month period of time, she needed to rent a vehicle when she assigned to respond to crisis calls. For a limited period of time, a supervisor's work performance had been impaired by drug and alcohol abuse problems. For a limited period, a second supervisor had allegedly breached client confidentiality. Claimant's self-contained office was replaced with a cubicle and claimant allegedly would breach confidentiality if she met with clients in the cubicle. Claimant's access to DHS information systems and DHS business cards and stationary was eliminated. However, claimant did not show that any of these circumstances were objectively grave.

With respect to the financial hardship claimant sustained when she had to rent a vehicle because she could not use her own, claimant agreed that having access to a private vehicle had always been a requirement of her job. Transcript at 18. Claimant did not present sufficient evidence from which to infer that the financial burden of renting a vehicle when she was on-call during one six-month period was so onerous that it created grave circumstances, particularly when her need to rent a vehicle appeared to be remote in time to her quitting work. With respect to losing access to DHS information systems, claimant indicated that absent access to the DHS narratives in those information systems, she needed sometimes to ask clients for information that they had already supplied to DHS. Claimant did not show that making such a second inquiry of clients caused her to incur grave harm. With respect to no longer having access to DHS-supplied business cards and stationary, claimant did not show how the business cards and stationary that the employer supplied to replace those from DHS were not an adequate substitute, let alone that she faced grave circumstances because of that substitution.

With respect to the supervisor that experienced drug and alcohol abuse problems in 2017, claimant failed to demonstrate that her concerns were not reasonably resolved when the employer terminated the supervisor's employment in 2017. In connection with the supervisor who allegedly breached confidentiality, claimant did not show that the supervisor's misuse of confidential information continued after the executive director addressed it with the supervisor and the client, and that any grave situation related to the misuse of information was ongoing. Finally, claimant did not demonstrate that DHS's arrangement to make private meetings room available to claimant when she met with clients was not an adequate remedy for claimant's loss of a private office, or that the DHS arrangement did not adequately ensure that the privacy of clients was protected.

Claimant did not show that grave circumstances existed at the time she left work, and that she had good cause for leaving work when she did. For this reason, claimant is disqualified from receiving unemployment insurance benefits.

DECISION: Order No. 18-UI-120926 is affirmed.

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

DATE of Service: January 23, 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

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 محكمة 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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