

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-1198

Affirmed
Disqualification

PROCEDURAL HISTORY: On November 16, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit work without good cause (decision # 82206). Claimant filed a timely request for hearing. On December 17, 2018, ALJ Meerdink conducted a hearing at which the employer failed to appear and issued Order No. 18-UI-121369, affirming the Department's decision. On December 26, 2018, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Robert Half, dba Account Temps, a staffing agency, employed claimant for one day, on September 28, 2018.

(2) During the three years prior to September 28, 2018, claimant had worked for a mortgage company as a residential mortgage underwriter. In that job, claimant had average earnings of approximately \$1,000 per week, working 40 hours per week. Claimant had a son who had been diagnosed and treated for leukemia and who typically required weekly visits to therapists and mental health professionals. The underwriting job also had offered claimant the flexibility to attend those weekly visits. However, that job ended unexpectedly in August 2018.

(3) Claimant began to seek permanent work with other mortgage underwriting companies. Claimant also sought temporary work through various staffing agencies. On or about September 24, 2018, the employer offered claimant a full-time, eight-week position as a loan administrator for its client, Heritage Bank, which paid \$20 per hour. Claimant believed she could survive on that wage for eight weeks, and could accommodate her son's medical visits during the eight weeks with the help of the child's father. Claimant accepted the position that was scheduled to begin on September 28, 2018.

(4) On September 28, 2018, claimant began her temporary assignment with Heritage Bank. She learned that she had been hired to scan volumes of bank documents into a paperless system, and engaged in that work for approximately four hours. At that point, she also learned that the job would probably last closer to 8 months than 8 weeks based on the volume of documents that needed to be scanned. She contacted the employer and notified her contact there that she was quitting. She wrote in a communication to her

contact, “[the Heritage job] will not be a job that I can continue. It would be unfair . . . if they spent time training me, only to have me leave when I find a permanent position, using my skill set as an underwriter, and at an acceptable salary. Thank you for the opportunity, I’m sorry it wasn’t a good fit . . . Exhibit 1 at 2.

(5) On September 28, 2018, claimant left work with the employer because it “wasn’t a good fit” and to seek permanent, better paying work as a mortgage underwriter.

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 she (or he) 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 the employer for an additional period of time. Leaving work without good cause includes leaving suitable work to seek other work. OAR 471-030-0038(5)(b)(A). In determining whether any work is suitable for an individual, the Department considers, among other factors, the degree of risk involved to the health, safety and morals of the individual, the physical fitness and prior training, experience and prior earnings of the individual, the length of unemployment and prospects for securing local work in the customary occupation of the individual, and the distance of the available work from the residence of the individual. ORS 657.190.

Claimant notified the employer that she was quitting work after she learned that her eight-week assignment as a loan administrator involved only scanning bank documents, could not be accomplished in eight weeks, and might last as long as eight months. Claimant believed that remaining in that position for longer would unreasonably delay her search for a permanent underwriting job with better compensation. Claimant also considered the job “boring” because it only involved “pushing paper.” Audio Record ~ 22:45 to 23:30. Claimant was upset with the employer because it apparently convinced both her and the client that claimant was a “good fit” for the assignment when she was not, given the scheduled length of the assignment and her past work history. Audio Record ~ 23:30 to 24:30.

To the extent claimant quit because she was not a “good fit” for the temporary assignment, she failed to establish good cause for leaving work when she did. Although the job tasks were mundane, the work did not pay substantially less than her prior employment. It was also scheduled to last only eight weeks, during which time she had arranged alternate means for her son to attend his appointments, and she might have obtained a better paying job in her chosen profession. To the extent claimant quit because she believed the temporary job would affect or delay her search for underwriting work, claimant also failed to establish good cause for leaving work on September 28, 2018, after working only one day. The rule in question, OAR 471-030-0038(5)(b)(A), does not contain any exceptions unless the work left was unsuitable. On this record, claimant did not establish that her temporary position was unsuitable because it posed a risk to her health, safety or morals, or that it was unsuitable based on her prior training and earnings for at least the scheduled eight weeks of the assignment. Nor does the record show that

claimant's short-term assignment would have substantially affected her prospects for obtaining local work in her customary occupation.

Accordingly, claimant voluntarily left work without good cause and is disqualified from receiving unemployment insurance benefits until she has earned at least four times her weekly benefit amount from work in subject employment.

DECISION: Order No. 18-UI-121369 is affirmed.

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

DATE of Service: February 1, 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 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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