

EMPLOYMENT APPEALS BOARD DECISION
2019-EAB-0466

Affirmed
Disqualification

PROCEDURAL HISTORY: On April 5, 2019, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 110055). Claimant filed a timely request for hearing. On April 30, 2019, ALJ S. Lee conducted a hearing at which the employer did not appear, and on May 7, 2019 issued Order No. 19-UI-129466, affirming the Department's decision. On May 17, 2019, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant included with his application for review a note commenting on the denial of benefits in Order No. 19-UI-129466. EAB did not consider the note when reaching this decision because claimant did not include a statement that they provided a copy of their argument to the opposing party or parties as required by OAR 471-041-0080(2)(a) (October 29, 2006).

FINDINGS OF FACT: (1) The Home Depot employed claimant as a general warehouse associate from January 2011 until February 22, 2019. Claimant worked 40 hours per week and earned \$20.24 per hour, and his total weekly pay was \$609.60.

(2) Claimant was 62 years-old. Claimant had worked in warehouses for many years. By 2019, claimant wanted a job that was less demanding on his body than warehouse work.

(3) On January 7, 2019, claimant interviewed for a job as a bus driver. Claimant successfully passed a drug test and met the other contingencies for hire as a bus driver. On February 7, 2019, claimant was offered the bus driver job and accepted it. In the bus driver job, claimant would work five hours per day, five days per week, or 25 hours per week. Claimant would earn \$17 per hour as a bus driver, for a total weekly pay of \$425.

(4) On February 11, 2019, claimant notified the employer that he was leaving work in two workweeks, or on February 22, 2019. On February 12, 2019, claimant began the classroom instruction needed to become a bus driver. Claimant continued working for employer while taking the bus driver classes.

(5) On February 22, 2019, claimant voluntarily left work with the employer to begin working as a bus driver.

(6) At the time claimant left work, his weekly benefit amount was \$502.¹

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

A claimant who leaves work voluntarily is disqualified from the receipt of benefits unless they prove, by a preponderance of the evidence, that they had good cause for leaving work when they did. ORS 657.176(2)(c); *Young v. Employment Department*, 170 Or App 752, 13 P3d 1027 (2000). “Good cause . . . is such that a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would leave work.” OAR 471-030-0038(4) (December 23, 2018). If a claimant leaves work to accept an offer of other work, good cause exists only if, among other things, the offered work pays an amount equal or in excess of the weekly benefit amount or an amount greater than the work left. OAR 471-030-0038(5)(a)(A)-(B).

While claimant testified about physical conditions that led him to decide to change careers, he did not decide to leave work until he had accepted the bus driver job on February 7, 2019. The evidence shows that the situation that prompted claimant to decide to leave work when he did was accepting the bus driver job. That situation is therefore the proper focus of the good cause analysis in this case.

To have good cause to leave work for the bus driver job, the pay that claimant received as a bus driver must have met one of two criteria: it had to pay the same or more than his weekly benefit amount, or it had to pay more than the work he left. It did not. As to the first criterion, the \$425 per week that claimant would be paid as a bus driver was not equal to or in excess of his \$502 weekly benefit amount. As to the second criterion, the \$425 per week that claimant would receive as a bus driver was not equal to or in excess of the \$609.60 per week that the employer paid claimant for warehouse work. Absent meeting one of these criteria, claimant did not show good cause for leaving work.

Because claimant did not show good cause for leaving work, he is disqualified from receiving unemployment insurance benefits.

DECISION: Order No. 19-UI-129466 is affirmed.

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

DATE of Service: June 20, 2019

¹ EAB has taken notice of fact, which is contained in Employment Department records. OAR 471-041-0090(1) (October 29, 2006). A copy of the information has been provided to the parties with this decision. Any party that objects to our taking notice of this information must submit such objection to this office in writing, setting forth the basis of the objection in writing, within ten days of our mailing this decision. OAR 471-041-0090(2). Unless such objection is received and sustained, the noticed fact will remain in the record.

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 desisyon.

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 ໄດ້ ໂດຍປະຕິບັດຕາມຄໍາແນະນໍາທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄໍາຕັດສິນນີ້.

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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