

EMPLOYMENT APPEALS BOARD DECISION
2019-EAB-0613

Affirmed
Disqualification

PROCEDURAL HISTORY: On May 31, 2019, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 101734). Claimant filed a timely request for hearing. On June 20, 2019, ALJ Snyder conducted a hearing, and on June 27, 2019, issued Order No. 19-UI-132419, affirming the Department's decision. On July 1, 2019, claimant filed an application for review with the Employment Appeals Board (EAB).

Included in claimant's application for review was a written argument. However, claimant did not declare that they provided a copy of their argument to the opposing party or parties as required by OAR 471-041-0080(2)(a) (May 13, 2019). The argument also contained information that was not part of the hearing record, and did not show that factors or circumstances beyond their reasonable control prevented them from offering the information during the hearing as required by OAR 471-041-0090 (May 13, 2019). Accordingly, EAB considered only information received into evidence at the hearing when reaching this decision. *See* ORS 657.275(2).

FINDINGS OF FACT: (1) Harlan Financial Solutions Inc. employed claimant, last as a technical support advisor, from September 2013 to May 7, 2019.

(2) Claimant worked as a "customer support specialist" for the employer's software products since the beginning of 2016. However, in September 2018, after the employer was acquired by another company, some of the employer's technical support people left its employ. As a result, claimant's duties were expanded to include technical support and her job title was changed to "technical support advisor."
Audio Recording ~ 10:50 to 12:00.

(3) In November 2018, claimant received technical support training to assist her in the transition to her expanded role. However, claimant considered the training inadequate after encountering difficulty in responding to client questions. On at least two occasions, after gathering necessary information from the client, she referred a matter to the employer's more highly trained technical staff to respond to the client,

but the staff sent those matters back to claimant to respond to the client. The second such instance occurred on or around April 23, 2019, when her supervisor discussed the issue with her and asked, “Did you even look at the records?,” which offended claimant. Audio Record ~ 17:15 to 18:15. Previously, after claimant had requested more training from her supervisor, she was told that she did not need to know “all the bells and whistles” concerning the product’s application but only needed to review the information available to her to adequately perform her job. Audio Recording ~ 14:45 to 15:30.

(4) Claimant considered the response she received from her supervisor on April 23 “condescending” and anticipated that she would receive a negative annual performance review in June 2019, which she wanted to avoid. Audio Recording ~ 17:15 to 18:15. For that reason, on April 23, 2019, she gave the employer two weeks’ notice that she was quitting on May 7, 2019. After she submitted her notice, but before she left work, two other managers within the company contacted her and inquired if she would be willing to work with them on other products. Claimant declined after concluding she did not want to stay with the company because she “did not like the direction the company was going.” Audio Record ~ 18:15 to 18:50.

(5) On May 7, 2019, claimant quit because she did not believe she had been adequately trained to provide technical support to clients and did not think she could be successful in her job.

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). 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 because she did not believe she had been adequately trained to provide technical support to clients, did not think she could be successful in that role, and did not want to risk being “documented” as performing poorly in her upcoming annual review in June. Audio Record ~ 15:30 to 17:15. However, claimant did not assert or show that she even attempted to follow her supervisor’s suggestion to look for the necessary information to answer client questions within available employer resources before referring the matter to next level technical advisors for response. She also admitted that in her verbal performance review in January, although she had been encouraged to increase her knowledge on the technical aspects of her job, she had been commended for doing well in performing the customer service aspects of the position. Audio Record ~ 15:30 to 17:15. Under those circumstances, viewed objectively, claimant’s concern that she might be “documented” as performing poorly in her June performance review was not a circumstance that was sufficiently grave to cause a reasonable and prudent person in her circumstances to conclude the only reasonable alternative was to quit when she did. Claimant had the reasonable alternative of doing her best to follow her supervisor’s suggestion to seek answers to client questions within available records, at least through the end of the month of May, before she was given her annual review. Moreover, before quitting on May 7, 2019, claimant rejected what appeared to be a reasonable alternative to quitting in working for other managers regarding other employer products.

Viewing the record as a whole, claimant failed to show that no reasonable and prudent person in her circumstances would either have attempted to follow her supervisor's suggestion or agreed to work under another manager regarding another employer product and continued to work for the employer for an additional period of time. 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. 19-UI-132419 is affirmed.

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

DATE of Service: August 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 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 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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