

EMPLOYMENT APPEALS BOARD DECISION
2019-EAB-1010

Affirmed
Disqualification

PROCEDURAL HISTORY: On September 13, 2019, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant quit work without good cause on August 9, 2019, and was disqualified from receiving benefits effective August 4, 2019 (decision # 85140). Claimant filed a timely request for hearing. On October 8, 2019, ALJ Murray-Roberts conducted a hearing, and on October 16, 2019 issued Order No. 19-UI-138143, modifying the Department's decision by concluding that claimant quit work without good cause on August 2, 2019, and was disqualified from receiving benefits effective July 28, 2019.¹ On October 21, 2019, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Purdom LLC employed claimant as a truck driver from April 25, 2019 until August 2, 2019.

(2) The employer paid claimant by the load. Between April 25, 2019 and August 2, 2019, claimant hauled 73 loads, an average of approximately 5 loads per week, and received \$190 per load. Claimant became dissatisfied with the amount of money he was making and the amount of unpaid down time he was experiencing between loads, and began to search for other work.

(3) On July 24, 2019, claimant received an offer of work as a truck driver with Ron Ballard Trucking (RBT). The offer was for work that paid \$18.00 per hour for an unknown number of hours per week, but would continue indefinitely. Claimant expected to begin work for RBT sometime during the week of August 18 to August 24, 2019. The offer of work was contingent on claimant passing a drug test, which was to be scheduled for some time prior to August 18, 2019.

(4) On August 2, 2019, claimant quit work to accept the job offer from RBT. On August 9, 2019, claimant took a drug test for RBT.

¹ Although Order No. 19-UI-138143 stated that it was affirming decision # 85140, the order should have stated that it was modifying the decision because the order changed the date of the work separation, and therefore the effective date of claimant's disqualification.

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). Claimant quit work to accept an offer of work from RBT. In applying OAR 471-030-0038(4), if an individual leaves work to accept an offer of other work, good cause exists if, among other factors, the offer is “definite.” OAR 471-030-0038(5)(a).

Claimant failed to show that he received a definite offer of work from RBT before quitting work on August 2, 2019. Claimant received an offer of work on July 24, 2019. However, the offer of work was contingent on claimant passing a drug test that did not occur until August 9, 2019, 7 days after he quit work with the employer. That claimant was confident that he would pass the drug test, or even that he ultimately did pass the drug test, does not change the outcome of this decision, because the issue is whether or not the offer itself was definite at the time he quit his job with the employer, not whether he ultimately satisfied the contingency at some point thereafter. Here, the offer of work was contingent, not definite, and claimant therefore did not have good cause to quit work when he did to accept the offer. OAR 471-030-0038(5)(a).

Claimant voluntarily left work without good cause. He is disqualified from receiving unemployment insurance benefits because of this work separation, effective July 28, 2019, and until he earns at least four times his weekly benefit amount from work in subject employment.

DECISION: Order No. 19-UI-138143 is affirmed.

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

DATE of Service: November 26, 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 Empleo. Si no está de acuerdo con esta decisión, puede presentar una Aplicación 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 الإستئناف 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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