

EMPLOYMENT APPEALS BOARD DECISION
2020-EAB-0290

Reversed
No Disqualification

PROCEDURAL HISTORY: On February 27, 2020, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant quit work without good cause and was disqualified from receiving unemployment insurance benefits effective January 26, 2020 (decision # 105108). Claimant filed a timely request for hearing. On April 1, 2020, ALJ Murdock conducted a hearing, and on April 3, 2020 issued Order No. 20-UI-147463, affirming the Department's decision. On April 7, 2020, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) MLF Group LLC employed claimant as a warehouse loader from October 3, 2016 to January 28, 2020.

(2) Claimant resided in Eugene, OR while working for the employer. He and a roommate leased a residence together, and shared rent and utility expenses. In October 2019, claimant's roommate relocated to Portland, which effectively doubled claimant's housing expenses. Claimant searched for a replacement roommate by placing ads on Craigslist and making inquiries at the employer without any success. Claimant considered trying to find a cheaper living arrangement in the area, but learned he could not afford the fees and the first and last month's rent needed for such a move. He was still obligated under his lease, and could not afford to pay to break the lease. Claimant did not have a family or other resource in the area that he could stay with cheaply or at no expense and remain working.

(3) Claimant had credit card debt and "a few loans" that remained outstanding. Audio Record at 13:00 to 15:00. He was only able to make minimum payments on his credit card debt and fell behind on his payments for at least one loan. By early January, claimant could not afford his monthly lease payment and obtained funds from his father, who lived in Montana and was disabled from knee replacement surgery, to make his January payment.

(4) Claimant's family offered to help him financially by allowing him to return home and live with them at no expense. Claimant also believed he could assist his father with his disability by returning home. Claimant's father had a second knee surgery scheduled for some time in February 2020.

(5) Claimant decided to move to Montana to live with his father. When he informed his landlord that he was breaking his lease agreement, he had to agree to pay the debt by installments because he could not afford to pay the debt all at once. On January 14, 2020, claimant gave the employer two weeks' notice of his intent to quit work to return to Montana. Claimant quit work on January 28, 2020 for that reason.

CONCLUSIONS AND REASONS: Claimant voluntarily left work with 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). "[T]he reason must be of such gravity that the individual has no reasonable alternative but to leave work." OAR 471-030-0038(4). 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 their employer for an additional period of time. Quitting work with good cause includes quitting due to compelling family reasons. OAR 471-030-0038(5)(g). OAR 471-030-0038(1)(e)(B) provides, in relevant part, that compelling family reasons "means...The illness or disability of a member of the individual's immediate family necessitates care by another and the individual's employer does not accommodate the employee's request for time off."

Order No.20-UI-147463 found that claimant quit work to move to Montana and concluded that he quit work without good cause.¹ The order reasoned that claimant did not quit work for a compelling family reason under OAR 471-030-0038(5)(g) because he failed to establish that his father required his care and that he did not quit work for good cause under OAR 471-030-0038(4) because he failed to establish that his financial circumstances were grave.²

The order under review correctly concluded that claimant failed to meet his burden to establish that he quit work for a compelling family reason. Claimant did not assert or show that his father's disability was so serious that it necessitated his care and that the employer had declined to accommodate a request from him for time off for that reason.

However, the record shows that claimant did meet his burden to establish that he quit work for good cause under OAR 471-030-0038(4). Based on claimant's description of the nature, severity, and duration of his financial difficulties at the time he quit work, claimant's situation was grave. His ability to remain in the Eugene area and continue to work for the employer was based on his ability to maintain affordable housing, which, given the lease he was contractually obligated to fulfill, required a roommate to split the cost of rent and utilities. After claimant's roommate left in October 2019, claimant's rent and utility expenses effectively doubled and he searched for a replacement for more than two months without success. He had no family or other resource in the area that he could stay with at little or no cost, and although he looked into trying to find a cheaper living arrangement in the area, he learned he could not

¹ Order No.20-UI-147463 at 1, 3.

² Order No.20-UI-147463 at 3.

afford the fees and the first and last month's rent needed for such a move, and could not afford to pay the penalty costs for breaking his existing lease. Claimant's credit card and loan debt added to his financial burden. By January 2020, claimant's bank account was "zero or negative" and he could not afford his rent for that month, necessitating that he ask for financial assistance from his disabled father to pay rent. Audio Record at 13:00 to 16:00.

Viewed objectively, claimant did not have any reasonable alternative to quitting work on January 28, 2020 to accept his family's offer of assistance by allowing him to return to Montana and live with them. He could not afford his February rent and he had already exhausted his alternatives by unsuccessfully seeking another roommate or local living arrangement.

Claimant demonstrated that no reasonable and prudent person in his circumstances, given his financial situation, inability to find affordable housing, and the offer of free housing out of state, would have continued to work for the employer for an additional period of time. Accordingly, claimant had good cause for leaving work when he did and he is not disqualified from receiving unemployment insurance benefits on the basis of his work separation.

DECISION: Order No. 20-UI-147463 is set aside, as outlined above.

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

DATE of Service: May 7, 2020

NOTE: This decision reverses an order that denied benefits. Please note that payment of benefits, if any are owed, may take approximately a week for the Department to complete.

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 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 ໄດ້ ໂດຍປະຕິບັດຕາມຄໍາແນະນໍາທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄໍາຕັດສິນນີ້.

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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