

EMPLOYMENT APPEALS BOARD DECISION
2020-EAB-0596

Affirmed
No Disqualification

PROCEDURAL HISTORY: On July 14, 2020, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause and was disqualified from receipt of benefits effective February 16, 2020 (decision # 55622). Claimant filed a timely request for hearing. On August 11, 2020, ALJ Frank conducted a hearing, and on August 12, 2020 issued Order No. 20-UI-153045, reversing decision # 55622 by concluding that claimant quit work with good cause. On September 1, 2020, the employer filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) League of Women Voters Portland (the employer) employed claimant as an office manager from September 2018 until February 26, 2020.

(2) Claimant worked 20 hours per week for the employer and was paid \$20.00 per hour.

(3) On February 25, 2020, 360 Campaign Consulting (“360”) offered claimant a position in data analysis and processing for two political campaigns. The offer was for 25 hours per week at \$15.75 per hour. The position was expected to last for at least nine months, with the possibility of continuing longer-term.

(4) Claimant accepted 360’s offer on February 26, 2020. She tendered her resignation to the employer the same day, and began working for 360 later that day.

(5) 360 paid claimant gross wages in the amount of \$460.80¹ before laying her off due to the COVID-19 pandemic.

¹ Claimant testified that 360 paid her a total of about \$360.00. Audio record at 15:25. The figure cited here is taken from wage records reported to the Department by 360 and therefore presumed more accurate. EAB has taken notice of this fact, which is contained in Employment Department records OAR 471-041-0090(1) (May 13, 2019). 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.

(6) Claimant's weekly benefit amount (WBA) is \$216.00.

CONCLUSIONS AND REASONS: Claimant quit working for the employer 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). OAR 471-030-0038(5)(a) provides that in applying OAR 471-030-0038(4), if an individual leaves work to accept an offer of other work, good cause exists only if the offer is definite, the work is to begin in the shortest length of time as can be deemed reasonable under the individual circumstances, the offered work is reasonably expected to continue, and pays an amount equal to or in excess of the weekly benefit amount (WBA) or an amount greater than the work left.

There is no dispute on this record that claimant voluntarily quit working for the employer to accept an offer of other work with another employer. Order No. 20-UI-153045 concluded that claimant quit work with good cause, correctly reasoning that the offer of other work was set to begin in the shortest length of time that can be deemed reasonable under claimant's circumstances and that the work paid an amount equal to or in excess of the WBA.² Order No. 20-UI-153045 at 2. Because of some uncertainty in the record regarding the remaining two requirements of OAR 471-030-038(5)(a), however, further discussion is warranted.

The order under review found that claimant "...expected the work [offered by 360] to last indefinitely." Order No. 20-UI-153045 at 1. This finding is contrary to claimant's testimony, which indicated only that she expected the work to last for nine months (with the potential to extend further). However, OAR 471-030-038(5)(a) does not require that the offered work be expected to continue indefinitely; it only requires that the work be reasonably expected to continue. Because a reasonable and prudent person can only foresee and anticipate potential events so far into the future, claimant's understanding that the job would last for at least nine months, with the possibility of continuing longer-term, supports the conclusion that she did in fact reasonably expect the work to continue.

The order under review also concluded that 360's offer of work was definite, although the record is silent as to the factors that were used to make such a determination. In pertinent part, the Department does not consider a job offer to be definite "if [it] is contingent upon, ... [such things as] passing a drug test, background check, credit check, and/or an employer receiving a contract." Oregon Employment Department, UI Benefit Manual §452 (Rev. 04/01/10). In the absence of testimony regarding any such contingencies, however, a reasonable inference that the offer was definite can be drawn from the fact that claimant's job offer, acceptance, and start date all took place within a short timeframe—shorter than could generally be expected had the employer required a background check or the like. On balance, the preponderance of the evidence therefore supports the conclusion that the job offer was not contingent on anything and therefore was definite.

² By claimant's testimony, she would have earned a gross of \$393.75 per week, which is greater than claimant's WBA. Although the record establishes that 360 *paid* claimant significantly less than this, all other information on the record supports the conclusion that this was the amount offered to claimant at the time she accepted it and resigned from her previous employer.

For the reasons stated, claimant quit work with good cause. Claimant is not disqualified from receiving benefits based on this work separation.

DECISION: Order No. 20-UI-153045 is affirmed.

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

DATE of Service: September 11, 2020

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 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 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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