

EMPLOYMENT APPEALS BOARD DECISION
2020-EAB-0637

Affirmed
Disqualification

PROCEDURAL HISTORY: On August 25, 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 August 18, 2019 (decision # 110454). Claimant filed a timely request for hearing. On September 14, 2020, ALJ Williams conducted a hearing at which the employer failed to appear, and on September 15, 2020 issued Order No. 20-UI-153979, affirming the Department's decision. On September 28, 2020, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Lanz Cabinet Shop Inc. employed claimant as an installer from June 2019, until August 19, 2019.

(2) In June 2019, claimant's fiancée bought land in the State of Washington. Claimant and his fiancée, who was retired, planned to build a house on the property and move to Washington.

(3) In July 2019, claimant's landlord informed claimant that the house claimant was renting was being sold and that claimant would have to vacate the property.

(4) Rather than search for an affordable rental unit near his place of employment and continue to work, claimant decided that he would quit work, move to the Washington property with his fiancée, and reside on the property in a shed or mobile home while the planned house was being built.

(5) On or about August 5, 2019, claimant gave the employer two weeks' notice that he was quitting to move to the state of Washington.

(6) Claimant last worked for the employer on August 19, 2019. Thereafter, claimant moved to his fiancée's Washington property and resided there as planned with his fiancée while their house was being built. As of the date of the hearing, September 14, 2020, the construction of their planned house had not yet been completed.

CONCLUSIONS AND REASONS: Claimant quit 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) (September 22, 2020). “[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.

OAR 471-030-0038(5)(g) provides that leaving work with good cause includes leaving work due to compelling family reasons. OAR 471-030-0038(5)(g). “Compelling family reasons” is defined under OAR 471-030-0038(1)(e) to include:

* * *

(C) The need to accompany the individual’s spouse or domestic partner;

(i) To a place from which it is impractical for such individual to commute;
and

(ii) Due to a change in location of the spouse’s or domestic partner’s employment.

* * *

On August 19, 2019, claimant quit work to move to his fiancée’s Washington property to reside with her on the property while a planned house was being built. Claimant decided to quit work and move to Washington shortly after his landlord notified him that he would have to vacate his rental unit due to a sale of the property. Although claimant may have been forced to vacate his rental unit in August 2019, claimant failed to show that his circumstances were so grave that no reasonable and prudent person in his circumstances would have at least sought an affordable rental unit near his place of employment, and if found, continued to work for the employer for an additional period of time. Moreover, claimant did not assert or show that financial, personal, or any other circumstances necessitated his decision to quit when he did and move to Washington with his fiancée long before their house construction was completed more than a year later. Accordingly, claimant failed to show that he quit work with good cause under OAR 471-030-0038(4).

The record also fails to establish that claimant quit work due to compelling family reasons. The record fails to show that claimant’s fiancée was a domestic partner, but assuming for the sake of argument that she was, the record fails to show that claimant had good cause for quitting under the referenced portion of the rule. Because claimant’s fiancée was “retired,” claimant did not need to leave work to accompany his domestic partner “due to a change in location of the...domestic partner’s employment.” Audio

Record at 16:10 to 17:00. Accordingly, claimant also failed to show that he quit work with good cause under OAR 471-030-0038(5)(g).

For the foregoing reasons, claimant voluntarily quit work without good cause and is disqualified from receiving unemployment insurance benefits effective August 18, 2019 and until he has earned at least four times his weekly benefit amount from work in subject employment.

DECISION: Order No. 20-UI-153979 is affirmed.

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

DATE of Service: November 2, 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 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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