

EMPLOYMENT APPEALS BOARD DECISION
2021-EAB-0516

Affirmed
Disqualification

PROCEDURAL HISTORY: On May 7, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer with good cause and was not disqualified from receiving unemployment insurance benefits (decision # 150805). The employer filed a timely request for hearing. On June 8, 2021, ALJ Janzen conducted a hearing, and on June 9, 2021 issued Order No. 21-UI-168359, reversing decision # 150805 by concluding that claimant quit work without good cause and was disqualified from receiving benefits effective February 28, 2021. On June 23, 2021, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Pressure Point Roofing, Inc. employed claimant as a roofing foreman from October 2019 to March 3, 2021.

(2) Claimant worked for the employer in Central Point, Oregon. Claimant earned approximately \$4,000 per month in wages or salary from the employer.

(3) In 2019, claimant went through a divorce that was finalized in August of 2019, after which claimant became obligated to pay several large debts. The monthly payments for those debts totaled approximately \$8,500, and included a \$2,400 mortgage payment on his Rogue River residence, a \$1,200 payment for a trailer, and an \$800 payment for his truck. He also had to make monthly payments of approximately \$800 for insurance, and other monthly payments for utilities, prior business debts, a hospital bill, and child support.

(4) After the divorce, claimant and his ex-wife remained owners of an unoccupied residence in Klamath Falls, Oregon. That property was unencumbered by a mortgage.

(5) On March 3, 2021, while claimant was at work, a county code enforcement officer notified him that he had to move two trailers off his Rogue River property because his son was living in a trailer without a permit. The code enforcement officer told claimant that if he did not move the trailers immediately, he could be subject to a \$10,000 fine. Also by March 3, 2021, claimant had fallen behind in making his

required monthly payments. Claimant decided to quit because of the potential fine for the trailers, and because he had fallen behind in his required payments and was otherwise concerned about his finances and losing assets. Claimant decided that he would move the trailers off his Rogue River property, move out of his Rogue River residence and into his Klamath Falls residence, and turn the Rogue River property over to the bank that held the mortgage. Claimant believed that by moving to his Klamath Falls residence he would save money because he would not have a mortgage to pay once the bank took ownership of the Rogue River property.

(6) On March 3, 2021, claimant notified his supervisor about his personal circumstances and quit work to move the trailers off his property move his personal belongings to his Klamath Falls residence. Later that day, claimant moved his trailers off the Rogue River property.

(7) Between March 3, 2021 and May 31, 2021, claimant cleaned out his Rogue River residence and moved his belongings to the Klamath Falls residence. It took claimant “about a month and a half to get totally moved.” Transcript at 16. Claimant also contacted the bank that held the mortgage on his Rogue River residence and “just let them have it.” Transcript at 12.

(8) On or about May 31, 2021, claimant moved to his Klamath Falls, Oregon residence.

(9) The employer would have granted claimant a leave of absence from work if he had requested one.

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.

Claimant quit work on March 3, 2021 because he was notified that if he did not immediately move two trailers off his property he could be assessed a substantial code enforcement fine, because of his financial difficulties. Claimant had fallen behind on his monthly payments of approximately \$8,500, was otherwise concerned about his finances and losing assets, and believed that by giving up his Rogue River home and moving to his Klamath Falls residence, he would save money by not having a mortgage to pay.

After claimant left work on March 3, 2021, however, he removed the trailers from his property that same day, which immediately eliminated the threat of being assessed a fine, so the record fails to show claimant had no reasonable alternative but to quit in order to move the trailers. Thus, to the extent claimant quit work to move the trailers, he did not have good cause to quit for that reason. Claimant also quit on March 3, 2021 because his financial difficulties. However, he failed to show how eliminating \$4,000 in wages or salary from the employer would improve his financial situation where the only

payment he eliminated by moving to Klamath Falls was the \$2,400 mortgage payment for his Rogue River house.

Lastly, claimant explained that he did not continue to work for the employer after March 3, 2021 because he had to move his personal belongings to that residence “by [him]self,” and it took him “about a month and a half to get totally moved.” Transcript at 16. From the date that claimant quit work to the end of May 2021, when claimant moved to Klamath Falls, was more than twelve weeks. Yet it took claimant only half of that time, “about a month and a half,” or six weeks, “to get totally moved.” The record does not show why claimant could not have continued to work while he made the “two trips a day” he testified that he made to move his belongings on weekends and occasional days off work. Transcript at 16. Nor does the record show that it would have been futile for claimant to request time off to move, because the employer would have “offered him time off” from work if he needed it. Transcript at 16, 20. For all of these reasons, claimant failed to meet his burden to show that no reasonable and prudent person in his circumstances would have continued to work for the employer for an additional period of time.

Claimant quit working for the employer without good cause and is disqualified from receiving unemployment insurance benefits effective February 28, 2021 and until he has earned at least four times his weekly benefit amount from work in subject employment.

DECISION: Order No. 21-UI-168359 is affirmed.

D. Hettle and A. Steger-Bentz;
S. Alba, not participating.

DATE of Service: July 30, 2021

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.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveygizmo.com/s3/5552642/EAB-Customer-Service-Survey>. You can access the survey using a computer, tablet, or smartphone. If you are unable to complete the survey online and need a paper copy of the survey, please contact our office.



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.

Employment Appeals Board - 875 Union Street NE | Salem, OR 97311
 Phone: (503) 378-2077 | 1-800-734-6949 | Fax: (503) 378-2129 | TDD: 711
www.Oregon.gov/Employ/eab

The Oregon Employment Department is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Language assistance is available to persons with limited English proficiency at no cost.

El Departamento de Empleo de Oregon es un programa que respeta la igualdad de oportunidades. Disponemos de servicios o ayudas auxiliares, formatos alternos y asistencia de idiomas para personas con discapacidades o conocimiento limitado del inglés, a pedido y sin costo.