

EMPLOYMENT APPEALS BOARD DECISION
2021-EAB-0768

Affirmed
No Disqualification

PROCEDURAL HISTORY: On June 25, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant had good cause to refuse an offer of work and was not disqualified from receiving unemployment insurance benefits based on the refusal of work (decision # 101009). The employer filed a timely request for hearing. On September 22, 2021, ALJ Logan conducted a hearing at which claimant failed to appear, and on September 24, 2021 issued Order No. 21-UI-175609, affirming decision # 101009. On September 27, 2021, the employer filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) North Clackamas School District #12 employed claimant as a nutrition services assistant until she was laid off due to the COVID-19 pandemic. The employer paid claimant about \$15.00 per hour in that position.

(2) On March 15, 2021, the employer offered claimant a position as a school bus transportation assistant. The position paid \$15.31 per hour, for a total of 37.5 hours per week, and was scheduled to begin on March 29, 2021. Claimant accepted the position that day based on the work schedule that the employer's human resources department had communicated to her.

(3) Sometime after March 15, 2021, the employer notified claimant that she had been misinformed about the work schedule, and that the actual schedule was a split shift from 6 a.m. to 5 p.m. At the time, claimant had children who were only attending school in-person part time due to school closures, and did not have access to childcare that would cover her entire work schedule for the days when her children were not in school. As a result, on March 26, 2021, claimant declined the employer's offer of work.

CONCLUSIONS AND REASONS: Claimant had good cause to refuse an offer of work.

ORS 657.176(2)(e) requires a disqualification from unemployment insurance benefits if claimant failed without good cause to accept suitable work when offered. OAR 471-030-0038(6) (September 22, 2020)

provides that “good cause” as used in ORS 657.176(2)(e) is such that a reasonable and prudent person, exercising ordinary common sense, would refuse to apply for available suitable work when referred by the employment office or accept suitable work when offered by the employer. For an individual with a permanent or long-term “physical or mental impairment” (as defined at 29 CFR Sec. 1630.2(h)) good cause is such that a reasonable and prudent person with the characteristics and qualities of such individual, would refuse to apply for available suitable work when referred by the employment office or accept suitable work when offered by the employer.

However, during a state of emergency declared by the Governor under ORS 401.165, the Department may waive, otherwise limit, or modify the requirements of OAR 471-030-0038. OAR 471-030-0071 (September 13, 2020). Paragraph (2)(d) of Oregon Employment Department Temporary Rule for Unemployment Insurance Flexibility (March 8, 2020), <http://records.sos.state.or.us/ORSOSWebDrawer/Recordpdf/7604239> [hereinafter OED Temporary COVID-19 Rule], provides that, although they must still meet the weekly eligibility requirements to receive benefits, “a person who fails to accept suitable work when referred by the employment office or the director because of a COVID-19 related situation is not disqualified from receiving unemployment insurance benefits.”

Under OED Temporary COVID-19 Rule (1), a COVID-19 related situation includes the following:

* * *

(f) A person is unable to work because they have to stay home to care for a child due to the closure of schools, child care providers, or similar facilities due to the novel coronavirus; and

* * *

The record shows that claimant was unable to accept the employer’s offer of work because, due to school closures, she did not have childcare for her children when they were not in school. As such, claimant’s circumstances constitute a COVID-19 related situation per OED Temporary COVID-19 Rule (1)(f). Because claimant refused the offer of work due to a COVID-19 related situation, claimant is not disqualified from benefits based on the refusal. Further, even if claimant’s circumstances did not constitute a COVID-19 related situation, a reasonable and prudent person would not accept an offer of work when it would require them to leave their children unattended and without childcare. Therefore, claimant had good cause to refuse the offer of work.

For the above reasons, claimant is not disqualified from receiving benefits based on the refusal of an offer work.

DECISION: Order No. 21-UI-175609 is affirmed.

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

DATE of Service: November 1, 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.

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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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