

EMPLOYMENT APPEALS BOARD DECISION
2021-EAB-0830

Reversed
No Disqualification

PROCEDURAL HISTORY: On August 24, 2021, 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 receiving unemployment insurance benefits effective July 25, 2021 (decision # 141305). Claimant filed a timely request for hearing. On September 28, 2021, ALJ Mott conducted a hearing at which the employer failed to appear, and on September 29, 2021 issued Order No. 21-UI-175897, affirming decision # 141305. On October 15, 2021, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant's and the employer's arguments contained information that was not part of the hearing record, and did not show that factors or circumstances beyond their reasonable control prevented them from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB considered only information received into evidence at the hearing when reaching this decision.

FINDINGS OF FACT: (1) Oregon Department of Human Services employed claimant from November 2018 until July 30, 2021.

(2) In 2016, claimant was diagnosed as having severe depression. Claimant used medication to treat his depression.

(3) Claimant initially worked as a family support employee, but transitioned into a support staff position in April 2021. As a family support employee, claimant had primarily teleworked during 2021, but his isolated work environment had adversely impacted his mental health. Claimant accepted a support staff position, a demotion, because he felt he needed to work in the office to improve his mental health. As a support staff member, claimant had a different manager.

(4) Claimant felt that his new manager criticized him often and unnecessarily, and did not provide encouragement regarding the work he did or value the information and procedures he provided to the

employer based on his experience as a family support employee. Claimant felt that during meetings and when he spoke with the manager, he would be “talked over [and] talked down to” by the manager, and his ideas were repeatedly “shot down.” Transcript at 7. The manager also dismissed claimant from a committee to which claimant had been invited. Claimant felt “demoralized” by the manager’s treatment of him. Transcript at 7.

(5) Claimant’s work environment affected his mental health, and he began to experience symptoms of poor mental health. Claimant became “distant” around others, began isolating himself from others, and experienced a weight gain of about 40 pounds. Transcript at 13. Claimant felt unable to do anything other than work and sleep.

(6) In June 2021, claimant began seeing his mental health medical provider regularly for treatment for depression. Claimant continued to feel “alone,” “depressed,” and “isolated.” Transcript at 15. Claimant did not have support from family outside of work because his family lived in California.

(7) During June 2021, claimant sought work with other employers, but did not find other work.

(8) Claimant did not discuss his dissatisfaction with his new manager with the manager. He felt it would make his work environment worse, based on how he had seen his manager interact with staff she supervised.

(9) In mid-July 2021, claimant filed a complaint about his manager’s treatment of him with the employer’s human resources department (HR). A HR representative interviewed claimant and told him she would respond to his complaint. By the end of July 2021, HR had not contacted claimant further about his complaint.

(10) On July 30, 2021, claimant quit work due to the adverse mental health impact of his work environment.

CONCLUSIONS AND REASONS: Claimant voluntarily quit 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) (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). Claimant had depression, a permanent or long-term “physical or mental impairment” as defined at 29 CFR §1630.2(h). A claimant with an impairment who quits work must show that no reasonable and prudent person with the characteristics and qualities of an individual with such an impairment would have continued to work for their employer for an additional period of time.

The order under review concluded that claimant quit work without good cause. The order reasoned that the manager’s treatment of him did not create a grave situation, and that claimant had the reasonable alternatives of addressing his work concerns directly with his manager, waiting for HR to respond to his

complaint, or asking the employer about moving to different position with a different manager. Order No. 21- UI-175897 at 3. However, the record does not support those conclusions.

The adverse impact on claimant's mental health from his work environment during 2021 created a grave situation. Claimant had long-term depression, which had worsened by April 2021, prompting him to accept a demotion so that he could return to work at the office, where he thought his mental health would improve from less isolation. However, rather than experiencing improvement in his mental health, the impact of his new manager's management style caused claimant additional symptoms related to his depression such that he felt he was unable to do anything but work and sleep. His symptoms persisted despite medication and additional treatment from his medical provider. The record is sufficient to establish that claimant faced a grave situation due to the adverse impact of his work environment on his mental health.

Claimant had no reasonable alternative but to leave work when he did. Based on claimant's experiences with his manager, which included the manager regularly dismissing and ignoring claimant's communications, the record does not show that addressing his concerns about the manager with the manager directly was a reasonable alternative to quitting, because the record does not show that a complaint to the manager would have been treated any differently. Claimant already had accepted a demotion in 2021 in an unsuccessful attempt to find a healthier work situation for himself, and the record does not show that the employer had another position for claimant that would provide a healthier work environment for him. It was not reasonable for claimant to continue to wait for HR to address his complaint given his deteriorating mental health condition, especially when HR apparently did not implement any temporary measures to address claimant's concerns while investigating the complaint.

Claimant established that no reasonable and prudent person with the characteristics and qualities of an individual with depression would have continued to work for the employer for an additional period of time. Claimant therefore voluntarily quit work with good cause, and is not disqualified from receiving unemployment insurance benefits based on his work separation from the employer.

DECISION: Order No. 21-UI-175897 is set aside, as outlined above.

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

DATE of Service: November 17, 2021

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 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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