

EMPLOYMENT APPEALS BOARD DECISION
2022-EAB-1074

Affirmed
Disqualification

PROCEDURAL HISTORY: On September 9, 2022, 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 August 14, 2022 (decision # 71311). Claimant filed a timely request for hearing. On October 11, 2022, ALJ Sachet-Rung conducted a hearing at which the employer failed to appear, and on October 17, 2022 issued Order No. 22-UI-205287, affirming decision # 71311. On October 24, 2022, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) AFC Urgent Care employed claimant as a medical assistant from February 14, 2022, until August 19, 2022. The employer paid claimant \$22.00 per hour.

(2) On approximately August 15, 2022, another employer offered claimant a permanent position as a medical assistant paying \$22.75 per hour, beginning September 5, 2022. Claimant was not aware of any contingencies on the offer.

(3) Claimant accepted the job offer upon receiving it and intended to give one week's notice to the employer of her resignation during the week of August 22, 2022.

(4) Claimant was dissatisfied with several aspects of her job throughout the course of her employment. These included having to work overtime daily, not having time for lunches, unexpectedly having to use vacation time for days when she was not scheduled to work, and frequent conflict with her supervisor over these and other issues.

(5) On August 19, 2022, claimant's supervisor made comments to claimant that claimant did not like, which led to an airing of claimant's grievances. Claimant was unhappy with her supervisor's attitude and responses to her complaints. Claimant had previously complained to human resources and another manager, but was dissatisfied with the results. Claimant decided to immediately quit the employment for these reasons, but only because she expected to begin the other job soon. She left the worksite and did not work for the employer again.

(6) On September 1, 2022, claimant's job offer was revoked because the prospective employer discovered that claimant did not have a medical assistant credential that they required. The prospective employer mistakenly believed claimant had this credential when they made the offer. The misunderstanding was not due to any misrepresentation by claimant.

CONCLUSIONS AND REASONS: Claimant voluntarily 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).

Claimant cited two reasons for quitting her employment on August 19, 2022, and testified she would have continued to work for an additional period of time if not for the intersection of both of these reasons on that date. Audio Record at 28:40 to 29:49. Both reasons must therefore be considered to determine if claimant had good cause for quitting work when she did.

Claimant applied for and accepted a new job with a different employer because it paid more and because she was dissatisfied with her current job. She intended to quit her job with the employer to begin work at the new job. A claimant who leaves work to accept an offer of other work "has left work with good cause only if the offer is definite and the work is to begin in the shortest length of time as can be deemed reasonable under the individual circumstances. Furthermore, the offered work must reasonably be expected to continue, and must pay [either] an amount equal to or in excess of the weekly benefit amount; or an amount greater than the work left." OAR 471-030-0038(5)(a). Leaving work on August 19, 2022, for work to begin on September 5, 2022, cannot be deemed the shortest length of time reasonable under the circumstances. Prior to August 19, 2022, claimant intended to give a week's notice of her resignation during the week of August 22, 2022. This would have made claimant's last day of work for the employer as late as September 3, 2022. There is no indication that anything about the new job offer, prior to its revocation, or any other circumstances impaired claimant's ability to work until as late as the day before the new job was to begin. The offer of other work therefore cannot be considered good cause for leaving.

Claimant testified that despite her intention to work for an additional period of time before quitting to begin the new job, an interaction with her supervisor on August 19, 2022 caused her to quit that day. Audio Record at 17:51 to 19:18. The supervisor initiated this interaction by asking if claimant was too tired to continue working that day, which claimant felt was inappropriate. Audio Record at 18:09 to 18:22. Claimant was then brought to the supervisor's office, where they had a lengthy discussion about claimant's complaints about the job. These complaints included an earlier occasion where claimant felt she was misled into agreeing to cover a coworker's shift, which led to an unexpected change in her own schedule, requiring her to use paid time off that she had not intended to use. Audio Record at 21:25 to 22:46. She additionally complained of not having time for lunch breaks, working excessive overtime on a daily basis, and not feeling supported by management. Audio Record at 24:00 to 24:15. Claimant testified that the supervisor wrote down these complaints and rebutted each one, during what she described as an argument lasting an hour and a half. Audio Record at 24:16 to 24:25. Claimant did not

reveal the contents of these rebuttals but was not satisfied with them. At the conclusion of the conversation, claimant told the supervisor she was quitting, effective immediately. She had previously spoken to her supervisor, an operations manager, and human resources about her complaints without a resolution she found satisfactory. These circumstances cannot be considered to be of sufficient gravity to justify quitting as claimant herself felt that she would not have quit for these reasons in the absence of a new job offer. Audio Record at 29:30 to 29:49. Accordingly, these reasons do not constitute good cause for quitting the job.

Therefore, claimant voluntarily quit working for the employer without good cause and is disqualified from receiving benefits effective August 14, 2022.

DECISION: Order No. 22-UI-205287 is affirmed.

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

DATE of Service: December 30, 2022

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 ໄດ້ໂດຍປະຕິບັດຕາມຄຳແນະນຳທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄຳຕັດສິນນີ້.

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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