

EMPLOYMENT APPEALS BOARD DECISION
2022-EAB-1229

Affirmed
Disqualification

PROCEDURAL HISTORY: On October 19, 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 February 20, 2022 (decision # 101243). Claimant filed a timely request for hearing. On November 23, 2022, ALJ Passmore conducted a hearing, and on November 29, 2022 issued Order No. 22-UI-208443, affirming decision # 101243. On December 13, 2022, Claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Josephine County employed claimant as a fleet mechanic from June 2007 until February 22, 2022.

(2) Claimant worked with another mechanic who regularly became angry, yelled, used foul language, and threw tools and parts. Audio Record 13:00 to 13:16. The coworker did not yell, use foul language, or throw anything at claimant, but claimant dreaded working with this individual and it caused him “undue stress.” Audio Record 13:48 to 14:03. Claimant also believed this individual was unproductive at his position, and claimant regularly had to complete tasks originally assigned to this coworker.

(3) Around October 2021, claimant was required to leave his typical workspace and go to a vehicle on the side of the road. This vehicle could not be towed and claimant was required to perform maintenance to render it towable. The vehicle had recently been repaired by the coworker who claimant had issues with, and claimant believed that the vehicle broke down because his coworker had not properly repaired it.

(4) On February 4, 2022, claimant’s direct supervisor provided the employer with a two-week notice of his resignation. Claimant believed that his workload would increase once the lead mechanic resigned. Audio Record at 18:17 to 18:50.

(5) On February 8, 2022, claimant discussed the issues regarding his coworker with the fleet supervisor. The fleet supervisor told claimant “it is what it is,” and that claimant needed to “deal with it.” Audio record at 15:32 to 15:44. Claimant had previously brought these concerns to the fleet supervisor and received a similar response. Audio Record 17:27 to 17:44. After the February 8, 2022 conversation, claimant provided a two-week notice of resignation.

(6) On February 22, 2022 claimant quit work.

CONCLUSION AND REASONS: Claimant quit 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.

The record shows that claimant quit work on February 22, 2022 because of frustration from working with a coworker that he believed was ineffective and temperamental. Claimant was uncomfortable with his coworker’s yelling and foul language, and testified that the coworker caused him to dread going to work, and have “undue stress.” Audio Record 13:48 to 14:03. However, claimant was never the target of any kind of verbal abuse or threats from this coworker. Additionally, the record did not show that he suffered any mental or physical health symptoms because of the stress from having to work with this individual. Claimant also alleged that this individual would throw tools and parts. While throwing tools and parts could create a dangerous situation, the record does not show that the coworker threw tools or parts at claimant, or that claimant was ever otherwise in danger because of these actions.

Claimant described one potentially dangerous situation that claimant believed was caused by the coworker improperly repairing a vehicle. The breakdown of the vehicle resulted in the employer being unable to tow the vehicle and claimant having to perform maintenance on it on the side of the road. While working from the side of the road is more dangerous than working from his typical workspace, the danger was not such that no reasonable and prudent person would have continued to work for the employer. Claimant himself continued to work for the employer for approximately 4 months after the incident occurred.

Claimant also was required to perform additional work because his coworker was unable to complete his assigned tasks, and claimant believed that his workload would increase even more after his supervisor resigned. However, claimant provided his notice shortly after his supervisor did, and the record does not reflect that claimant’s work actually increased in the period after his supervisor resigned. Having to perform additional work can be frustrating, but claimant has not shown that this additional workload was sufficient to render his situation grave. Moreover, claimant had the reasonable alternative of waiting to determine whether his speculation about his workload increasing actually occurred.

For the above reasons, claimant has not carried his burden to show that he faced a situation of such gravity that a reasonable and prudent person would have no reasonable alternative but to quit. Therefore, claimant quit work without good cause and is disqualified from unemployment insurance benefits.

DECISION: Order No. 22-UI-208443 is affirmed.

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

DATE of Service: February 14, 2023

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 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.

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