

EMPLOYMENT APPEALS BOARD DECISION
2023-EAB-0616

Affirmed
No Disqualification

PROCEDURAL HISTORY: On March 17, 2023, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit work without good cause and therefore was disqualified from receiving unemployment insurance benefits effective February 12, 2023 (decision # 83115). Claimant filed a timely request for hearing. On May 22, 2023, ALJ Adamson conducted a hearing at which the employer failed to appear, and on May 26, 2023 issued Order No. 23-UI-226207, reversing decision # 83115 by concluding that claimant voluntarily quit work with good cause and therefore was not disqualified from receiving benefits based on the work separation. On May 30, 2023, the employer filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Meduri Farms, Inc. employed claimant as a customer service representative from March 24, 2022 until February 14, 2023.

(2) Beginning the first week of her employment, claimant noticed “dysfunction within communication” with her coworkers in her department. Transcript at 13–14. This included a coworker who would “scream and yell” and throw objects at claimant when the coworker was upset. Transcript at 14. Claimant spoke to the employer’s human resources (HR) representative about these concerns. However, the HR representative told claimant that he felt it was his responsibility to “just listen” to women because they can “get emotional at times.” Transcript at 14. The HR representative did not make any moves to address claimant’s concerns, and when she pressed him further, he instead suggested that she come up with a plan to do so herself. Claimant’s concerns with her coworkers persisted after that meeting.

(3) Claimant’s negative interactions with her coworkers caused her to experience significant stress, which in turn led her to experience panic attacks, heart palpitations, chest pain, abdominal pain, and migraines. Claimant had never experienced these concerns prior to 2022. In August 2022, claimant visited an urgent care clinic to address her heart palpitations and related symptoms. Claimant also visited other medical providers and a counselor regarding the various symptoms she had been experiencing, but those symptoms persisted throughout the length of her employment.

(4) In September 2022, a new HR representative took over. That representative documented claimant's concerns regarding her coworkers. Also in September 2022, the employer discharged one of claimant's coworkers who had been causing some of the trouble that claimant had been experiencing. Claimant continued to experience various hostilities with her coworkers after that point, as well as "a lot of micromanaging" on the part of claimant's manager. Transcript at 23.

(5) In January 2023, claimant met with the employer's HR representative with the intention of quitting due to her continuing difficult interactions with her coworkers. The HR representative convinced claimant not to quit at that time, and told her that he would "try to fix this." Transcript at 6. However, the issues with claimant's coworkers did not resolve after that meeting.

(6) On February 14, 2023, claimant attended another meeting with the HR representative, as well as her manager and her manager's manager. Claimant understood that the meeting would be held to address claimant's concerns about workplace hostility. During the meeting, however, the two managers told claimant "all the things [claimant] had apparently... done wrong within the last week," but did not engage with claimant regarding her concerns of hostility in the workplace. Transcript at 7. Additionally, the two managers raised their voices at claimant, leaned over the desk while speaking to claimant "in a taunting manner," talked over each other, and told claimant that they did not intend to address claimant's concerns. Transcript at 7–8. As a result of the continued issues of workplace hostility that claimant experienced, claimant voluntarily quit work that day.

(7) At the time that claimant quit, the employer did not have any other positions or locations that she was qualified for and could have transferred to.

(8) After claimant quit, her medical issues resolved.

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). 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 voluntarily quit work due to various and ongoing hostile interactions she had with her coworkers, including managers, during her tenure with the employer. This hostility caused claimant to experience stress that caused a number of medical symptoms that she had never experienced before. Particularly given that the workplace hostility caused claimant to experience new medical problems, both mental and physical, claimant faced a grave situation. Given that claimant's medical problems resolved after she quit working for the employer, more likely than not claimant's medical conditions did not constitute a long-term impairment.

Further, the uncontroverted record shows that claimant had no reasonable alternative but to quit. Claimant made a number of attempts to address the issues of hostility with HR and with management, but felt that she either was not taken seriously or that the issues persisted despite attempts at intervention. Notably, at her final meeting with HR and management on the day that she quit, the managers at the meeting explicitly told claimant that they did not intend to address her concerns while actively engaging in the same type of behavior that she took issue with. A reasonable and prudent person, having experienced workplace hostility for nearly a year without a resolution, would take the managers' behavior in that meeting as proof that further attempts at resolving the problem would likely be futile. The record also shows that claimant attempted to address the medical effects of the stress caused by the workplace hostility, but that her condition did not improve until after she quit. Finally, claimant could not have transferred to another position with the employer because there were no other available positions for which she was qualified.

For the above reasons, claimant voluntarily quit work for a reason of such gravity that she had no reasonable alternative but to quit, and is not disqualified from receiving benefits based on the work separation.

DECISION: Order No. 23-UI-226207 is affirmed.

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

DATE of Service: July 6, 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 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
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