

EMPLOYMENT APPEALS BOARD DECISION
2024-EAB-0070

Affirmed
Disqualification

PROCEDURAL HISTORY: On December 4, 2023, 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 benefits effective August 20, 2023 (decision # 75358). Claimant filed a timely request for hearing. On January 9, 2024, ALJ Fraser conducted a hearing and issued Order No. 24-UI-245039, affirming decision # 75358. On January 12, 2024, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Amazon.com Services, Inc. employed claimant as an area manager at one of the employer's facilities in Portland, Oregon from August 21, 2021, until August 21, 2023.

(2) In December 2022, claimant was switched to a new team with a different manager. From that point onwards, claimant felt that his work was under greater scrutiny and that the manager "targeted" him regarding his performance. Audio Record at 16:35.

(3) On August 16, 2023, the facility's site lead and a human resources representative summoned claimant to a meeting regarding his work performance. At that meeting, claimant was advised that a performance improvement plan (PIP) had been prepared for him, which outlined several areas for improvement that he would be required to meet within 21 days. The employer further advised claimant that he if he agreed to the terms of the PIP, he could attempt to meet its requirements within the 21-day period, at which point he would be permitted to continue in his role; or that if he did not, he would be discharged. The employer also offered claimant the opportunity to resign rather than agree to the PIP and attempt to meet its requirements. Claimant felt that the terms of the PIP were unfair, and that the employer's concerns expressed in the PIP were "extremely trivial." Audio Record at 8:25.

(4) Claimant was off of work for his normally scheduled off days, and a short vacation, between August 17 and 20, 2023. During that time, he considered whether he wanted to continue working for the employer. Claimant ultimately decided to quit, as he was uncertain if he could meet the requirements of

the PIP, and that, even if he did, he would be “walking on eggshells” from that point onwards. Audio Record at 11:25. On August 21, 2023, claimant notified the employer that he was resigning.

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). 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 the employer’s having given him an ultimatum of either agreeing to the requirements of a PIP, or resigning. Claimant chose the latter rather than attempting to meet the requirements of the PIP because he was uncertain of whether he could meet those requirements, and felt that, even if he did, he would be “walking on eggshells” from that point onwards. These beliefs were apparently the result of having worked for several months under a manager whom claimant felt “targeted” him and subjected him to unfair scrutiny. However, a reasonable and prudent person of normal sensitivity, would not have concluded that being required to improve their work performance, or else face possible discharge, constituted a situation of such gravity that they had no reasonable alternative but to leave work.

Although claimant’s frustration regarding feeling “targeted” and similar is understandable, a feeling of heightened scrutiny regarding one’s work performance is not, by itself, a grave situation. Claimant did not identify any secondary effects from these feelings of frustration, for instance, such as an exacerbation of underlying medical or mental health conditions that might have heightened claimant’s circumstances beyond mere unpleasantness.

Additionally, although it is not clear from the record how likely claimant would have been to successfully meet the requirements of the PIP, his testimony suggests that, had he agreed to the PIP, he would have faced at least a moderate possibility of discharge due to not being able to meet its requirements. However, the record does not show that such a discharge, even if it was likely, would have so negatively affected claimant’s future employment prospects that he had no reasonable alternative but to quit. *Compare McDowell v. Employment Dep’t.*, 348 Or 605, 236 P3d 722 (2010) (claimant had good cause to quit work to avoid being discharged, not for misconduct, when the discharge was imminent, inevitable, and would be the “kiss of death” to claimant’s future job prospects); *Dubrow v. Employment Dep’t.*, 242 Or App 1, 252 P3d 857 (2011) (a future discharge does not need to be certain for a quit to avoid it to qualify as good cause; likelihood is not dispositive of the issue but it does bear on the gravity of the situation).

Finally, claimant did not show that quitting resulted in any improvement of his circumstances. *See Oregon Public Utility Commission v. Employment Dep’t.*, 267 Or App 68, 340 P3d 136 (2014) (for a

claimant to have good cause to voluntarily leave work, the claimant must derive some benefit for leaving work).

For the above reasons, claimant has not met his burden to show that he quit for a reason of such gravity that he had no alternative but to do so. Claimant therefore quit work without good cause, and is disqualified from receiving unemployment insurance benefits effective August 20, 2023.

DECISION: Order No. 24-UI-245039 is affirmed.

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

DATE of Service: February 16, 2024

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

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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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