

EMPLOYMENT APPEALS BOARD DECISION
2024-EAB-0149

Affirmed
Disqualification

PROCEDURAL HISTORY: On December 21, 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 October 8, 2023 (decision # 72134). Claimant filed a timely request for hearing. On January 24, 2024, ALJ Buckley conducted a hearing, and on January 31, 2024, issued Order No. 24-UI-246949, affirming decision # 72134. On February 10, 2024, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: EAB considered claimant's argument in reaching this decision.

FINDINGS OF FACT: (1) Lucidyne Technologies, Inc., later known as Microtec, employed claimant, most recently as an office manager in their accounting department, from August 2011 until October 8, 2023. Microtec acquired Lucidyne Technologies, Inc. in April 2020.

(2) In April 2022, claimant discussed with the employer's chief financial officer (CFO), who had also been claimant's supervisor since claimant was hired, about taking on additional duties and a new job title, business manager. The CFO encouraged claimant in this regard and forwarded the request to the employer's other officers, but it was apparently not acted upon by the employer. Changing claimant's title to "account manager" was also discussed at some point but never occurred. Transcript at 11. Claimant was disappointed that these potential promotions did not occur.

(3) Following the April 2020 acquisition, some long-time Lucidyne employees left for other jobs or were laid off. In December 2022, the CFO retired. The employer hired many new employees, some of whom left after only a few months. Claimant was upset by the turnover and felt that more work was being "put on [the remaining employees]" as a result. Transcript at 17. Claimant's department was also moved to a smaller office with smaller desks which made claimant feel she "had been stripped of everything [she] had worked hard to acquire at Microtec." Exhibit 1 at 4.

(4) In January 2023, the employer's CFO from their Italy operation assumed control over the accounting department where claimant worked, following the retirement of the CFO who had previously supervised claimant since her hire. The new CFO, A.O., expected the formerly-Lucidyne accounting department to use Microtec's processes and procedures. Claimant felt that "they weren't familiar with how we did things" and that "wasn't working well with our process." Transcript at 17. Claimant identified some examples of such procedures she believed were inefficient or resulted in errors, and asked for more employees in her department to handle the additional work that resulted. The employer did not make these changes. Claimant felt the employer was not "transparent" because they did not explain why they did things in ways claimant disagreed with, or why her ideas were not implemented. Transcript at 18.

(5) On July 17, 2023, A.O. approached claimant to ask her advice on a matter and phrased the question in a way that called for a "yes" or "no" answer. Rather than answering directly, claimant began her response by starting to explain her reasoning. A.O. held up his hand and interrupted claimant's response by requesting that she answer "yes" or "no." Claimant was "so upset" by this that she had to leave the office for an hour to compose herself. Transcript at 16. After she returned to work, she emailed the human resources department about the incident and stated that she would be working from home until A.O. returned to Italy two days later. Human resources investigated and determined that the interaction occurred as it did due to A.O.'s limited English proficiency and cultural differences about how workplace communications are typically conducted. A mediation was held with A.O. and claimant, as a result of which A.O. "apologized [to claimant] and wrote a letter and apologized." Transcript at 29. It was announced sometime between this incident and the end of September 2023 that A.O. would be separating from the employer by October 2023.

(6) In the first week of October 2023, claimant overheard a private conversation taking place in the controller's office about claimant. At the time, a temporary employee, whose name claimant could not recall because "she was there for a very short time," was serving as the controller. Transcript at 9. Claimant "had gotten to [her] breaking point" because she was tired of "listening to rumors about [the CFO who retired in 2022] and how terrible the accounting team was," and went into the controller's office "and told her that what she's saying is not true." Transcript at 10. The controller listened to claimant and later called claimant into her office and explained that "she was just trying to help," and tried to "smooth it over." Transcript at 10-11.

(7) On October 8, 2023, claimant submitted a letter giving notice of her intent to resign effective October 13, 2023. Claimant resigned as planned on October 13, 2023. Claimant resigned, in part, because she "was stressed coming into work," by which she meant that she was in tears and her "stomach just got into a knot" Transcript at 21-22. Claimant did not seek medical treatment for this. Claimant's other reasons for quitting involved her dissatisfaction with changes that occurred due to the employer's acquisition of Lucidyne, which she believed caused the stress she experienced, and because the employer failed to promote her.

(8) The employer did not want claimant to resign and wished for claimant to remain one of their employees. At the time of her resignation, claimant knew that the employer was soon getting a new chief executive officer (CEO) and CFO, which gave the employer hope that claimant "would stay." Transcript at 29. However, claimant did not work for the employer after October 13, 2023.

CONCLUSIONS AND REASONS: Claimant 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 when she did because she felt stressed by various changes in the workplace that resulted from her long-time employer being acquired by another business. The record does not show that negative impacts of the April 2020 merger were immediately felt by claimant. For example, claimant wrote to her supervisor on April 3, 2022, “I think my worries have resolved themselves. With Microtec not taking action for a year then coming in and taking over what seemed to be a very fast pace was just a tad unsettling. I love the diversity & flexibility of my job and I think it might help to see how the outline of my job might evolve.” Exhibit 1 at 6. The record suggests that it was the departure of Lucidyne’s CFO, who had hired claimant and been her supervisor for more than a decade, and with whom claimant enjoyed a close employment relationship, that marked the beginning of claimant’s dissatisfaction with the work environment in January 2023. This and other changes that followed, along with the employer’s failure to grant claimant’s request for a promotion in job title and duties, were the cause of claimant’s stress and her decision to quit work.

Claimant did not show that the employer’s failure to act on her request to change job titles and duties, which claimant considered a promotion, constituted a grave situation. Though claimant felt she deserved a promotion, and her supervisor at the time apparently agreed, the employer ultimately decided against it for unknown reasons. Decisions whether to promote employees or assign job titles and duties are generally within an employer’s discretion and subject to their business needs. Absent evidence that claimant’s promotion request was denied for unlawful reasons, which is not suggested by this record, a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would not leave work due to being denied a promotion under these circumstances.

Further, claimant’s interaction with A.O. on July 17, 2023, did not cause claimant to face a grave situation. That day, A.O. asked claimant a non-accusatory question in the vein of seeking advice, and interrupted claimant mid-explanation to say that he desired a quick and succinct answer. In some work environments or relationships, this manner of interacting might occur with some frequency. However, claimant was unaccustomed to being spoken to in this way and was deeply offended by it. A.O., apparently unaware that claimant would be offended by speaking to her that way, later apologized, participated in mediation with claimant, and ultimately separated from the employer prior to claimant leaving work. As claimant no longer had to work with A.O. or have any contact with him as of the time she quit work, she did not face a grave situation based on this incident, which had occurred more than two months prior.

Similarly, claimant overhearing the employer’s temporary controller talking privately about claimant’s work while in the controller’s own office, and claimant at other times hearing “rumors,” apparently criticizing the performance of claimant, the accounting department, and the pre-acquisition CFO, did not

constitute a grave situation. The record does not show that the employer was dissatisfied with claimant's work. To the contrary, the testimony at hearing demonstrated that the employer did not want claimant to resign, suggesting satisfaction with her work. There is no evidence that claimant received any warnings or other type of discipline during her employment. When claimant confronted the controller about what she overheard, the controller did not inform claimant of any deficiencies in her work, instead telling her that whatever had been said in her office had been said to "help" claimant. Even if one or more of claimant's coworkers or supervisors were dissatisfied with her work and discussed this amongst themselves, the record does not support that claimant was in any danger of being disciplined or discharged as a result. And, as the temporary controller claimant confronted was employed by the employer for such a short time that claimant could not remember her name, her thoughts about claimant's work were likely of little or no relevance to claimant or the employer at the time claimant stopped working. A reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would not leave work because of these circumstances.

Additionally, claimant failed to show that her complaints about various workplace changes constituted a grave situation. Claimant did not like that she, along with the rest of the accounting department, was moved to a smaller office with smaller desks. Claimant also did not like that the acquiring company insisted on doing things "their way" regarding accounting and other matters, which claimant believed was inferior to the way she had done things prior to the acquisition. That the employer did not explain to claimant's satisfaction why they were doing things a particular way, or why they rejected claimant's suggestions for improvement, also upset her. These business decisions and others, claimant believed, led to high turnover among employees, resulting in more work for her and her department. Claimant experienced stress from these changes, and from some coworkers and supervisors with whom she had temporarily worked. It is understandable that these changes were not well-received by claimant, and caused stress that she had not previously experienced.

However, claimant has not established that these changes, while a departure from her apparently low-stress and satisfying work for many years with Lucidyne, presented a situation of such gravity that she had no reasonable alternative but to quit. Although some reasonable and prudent people might have found adapting to changes such as these so unpleasant and stressful that they would have quit working for the employer, as claimant did, claimant failed to show that no reasonable and prudent people would have continued working for the employer for some additional period of time despite these unpleasant changes, given the employer's continued satisfaction with their work and the possibility that announced changes in corporate leadership over the following weeks could cause conditions to improve. Accordingly, claimant has not met her burden of showing that her reasons for quitting work were objectively grave, and therefore that she left work with good cause.

For these reasons, claimant quit work without good cause and is disqualified from receiving unemployment insurance benefits effective October 8, 2023.

DECISION: Order No. 24-UI-246949 is affirmed.

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

DATE of Service: March 15, 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

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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www.Oregon.gov/Employ/eab

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