EO: Intrastate
BYE: 25-Jan-2025

State of Oregon
Employment Appeals Board
875 Union St. N.E.
Salem, OR 97311

004
VQ 005.00

EMPLOYMENT APPEALS BOARD DECISION
2024-EAB-0479

Affirmed
Disqualification

PROCEDURAL HISTORY: On March 19, 2024, 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 January 21, 2024 (decision # L0003196996). Claimant filed a timely request for hearing. On May 22, 2024, ALJ Strauch conducted a hearing, and on May 30, 2024, issued Order No. 24-UI-255348, affirming decision # L0003196996. On June 1, 2024, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: The employer's argument contained information that was not part of the hearing record, and did not show that factors or circumstances beyond their reasonable control prevented them from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB considered the employer's argument only to the extent it was based on the hearing record.

EAB considered claimant's argument in reaching this decision. Claimant argued that he faced a grave situation when he quit work because the employer told him that he would only be paid for time spent completing work orders, and would no longer be paid for time spent on-call. Claimant's Argument at 1. The record does not show that claimant was legally entitled to on-call pay. *See* ORS 653.010(11); OAR 839-020-0041 (January 9, 2002). The record suggests that claimant was not required to wait at the employer's location between receiving work orders, and that he was not assigned work orders so frequently that he was not able to use the time between them effectively for his own purposes. To the contrary, the basis of claimant's dissatisfaction with his work for the employer was the *lack* of available assignments for him, rather than being assigned work orders so often that he could not use the time between them effectively. Claimant therefore did not face a grave situation due to the employer's announcement that he would no longer be paid for time spent on-call, and this announcement effectively constituted only a reduction in work hours.

Per OAR 471-030-0038(5)(e) (September 22, 2020), a claimant who leaves work due to a reduction in hours "has left work without good cause unless continuing to work substantially interferes with return to

full time work or unless the cost of working exceeds the amount of remuneration received." The record shows that the employer provided claimant with a van and fuel with which to perform his work, and that claimant would not have incurred any expenses by continuing to work for the employer. Further, claimant has not shown that continuing to work a reduced number of hours for the employer would have substantially interfered with his ability to seek full-time work elsewhere. The employer testified that going forward, claimant's assignments would primarily involve work that was not necessarily urgent or time-sensitive, such as "grounds maintenance" and replacing smoke detectors. Transcript at 23. Further, both parties recounted times when claimant declined to complete work orders he had been assigned without consequence, usually on the basis that he lacked the knowledge or skill for that type of work. Transcript at 21, 30. This evidence suggests that claimant was afforded a degree of flexibility in his schedule such that his ability to apply or interview for positions with other employers would not have been substantially impacted by his continued employment. Accordingly, the employer's announcement that they were reducing the number of hours of work offered to claimant did not constitute good cause for quitting work pursuant to OAR 471-030-0038(5)(e).

EAB considered the entire hearing record. EAB agrees with Order No. 24-UI-255348's findings of fact, reasoning, and conclusion that claimant quit work without good cause. Pursuant to ORS 657.275(2), Order No. 24-UI-255348 is **adopted**.

DECISION: Order No. 24-UI-255348 is affirmed.

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

DATE of Service: July 9, 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 – 本判决会影响您的失业救济金。 如果您不明白本判决， 请立即联系就业上诉委员会。 如果您不同意此判决，您可以按照该判决结尾所写的说明，向俄勒冈州上诉法院提出司法复审申请。

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 ໄດ້ ໂດຍປະຕິບັດຕາມຄຳແນະນຳທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄຳຕັດສິນນີ້.

Arabic

هذا القرار قد يؤثر على منحة البطالة الخاصة بك، إذا لم تفهم هذا القرار، إتصل بمجلس منازعات العمل فورا، 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 دستورالعمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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