

EMPLOYMENT APPEALS BOARD DECISION
2024-EAB-0493

Affirmed
Disqualification

PROCEDURAL HISTORY: On January 25, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit work without good cause and was therefore disqualified from receiving unemployment insurance benefits effective October 8, 2023 (decision # 114521). Claimant filed a timely request for hearing. On May 21, 2024, ALJ Christon conducted a hearing at which the employer failed to appear, and on May 22, 2024, issued Order No. 24-UI-254744, affirming decision # 114521. On June 6, 2024, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Circle K Stores, Inc. employed claimant as a fuel pump attendant in the area of Lincon City, Oregon from August 2, 2023, until October 13, 2023. The employer paid claimant \$14.75 per hour.

(2) On July 11, 2023, claimant received a written offer of employment from Freeport-McMoRan, Inc. to be a diesel mechanic at their mining business in Arizona. Claimant's base pay would be \$31.00 per hour. The offer was contingent on claimant passing a physical examination and drug screening, and relocating from Oregon to Arizona at his own initial expense, though he would later be reimbursed. Claimant passed the physical examination and drug screening by early October 2023. The offer was valid for six months with a negotiable start date. Claimant accepted the offer with the prospective employer understanding that claimant would need to obtain the financial resources to move to Arizona.

(3) On August 2, 2023, claimant began working for the employer with the understanding that he would only work for them until October 13, 2023, at which time he projected that he would have accrued sufficient savings to move to Arizona to begin work at the mining company.

(4) By October 13, 2023, claimant knew that he had not accrued sufficient savings to move to Arizona. He nonetheless informed the employer that day that he was quitting work as planned in the hopes of accepting the position with the mining company and somehow getting to Arizona. He did not work for the employer thereafter.

(5) On October 17, 2023, claimant contacted the mining company and told them that he would be unable to accept the job because he was unable to afford the move to Arizona. Claimant did not move to Arizona or work for the mining company.

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.

A claimant who leaves work to accept an offer of other work “has left work with good cause only if the offer is definite and the work is to begin in the shortest length of time as can be deemed reasonable under the individual circumstances. Furthermore, the offered work must reasonably be expected to continue, and must pay [either] an amount equal to or in excess of the weekly benefit amount; or an amount greater than the work left.” OAR 471-030-0038(5)(a).

In pertinent part, the Department does not consider a job offer to be definite “if [it] is contingent upon . . . [such things as] passing a drug test, background check, credit check, and/or an employer receiving a contract.” Oregon Employment Department, UI Benefit Manual §442 (Rev. 04/01/10).

Claimant quit working for the employer in the hopes of accepting an offer of new employment. His desire to work at a job paying more than double the hourly rate of the employer was understandable. Further, claimant satisfied nearly all of the contingencies with which the offer was made, such as the physical examination and drug screening requirements. However, the remaining contingency that claimant move to the mining company’s location in Arizona was not satisfied as of the date claimant quit working for the employer, and the record shows that claimant knew before he quit that this contingency could not be satisfied.

At hearing, claimant was asked if he knew on the day that he quit working for the employer that he did not have enough money to get to Arizona, and he replied, “I did not and I was hoping for a miracle.” Transcript at 23. Claimant explained that he did not continue working for the employer until he knew he had the resources to move to Arizona “[b]ecause that was my plan [to quit on October 13, 2023] and I obligated myself to a mine in Arizona.” Transcript at 25. Though the job offer from the mining company did not expire until early 2024, claimant testified that he could not have continued to work for the employer until he had accumulated enough savings for the move because his work for the employer “just did not pay enough.” Transcript at 26. From this evidence, it can reasonably be inferred that claimant knew that the offer of other work from the mining company was not definite at the time he quit because he could not satisfy the company’s condition that he move to Arizona, and had no reason to believe that this circumstance would change in the immediate future. This inference is further supported by claimant declining the mining company’s job offer four days later, citing his inability to afford the

move to Arizona. Therefore, pursuant to OAR 471-030-0038(5)(a), claimant left work to accept an offer of other work that was not definite, and therefore left work without good cause. Claimant did not assert any other reason for leaving work.

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

DECISION: Order No. 24-UI-254744 is affirmed.

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

DATE of Service: July 12, 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 desisyong ito.

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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