

EMPLOYMENT APPEALS BOARD DECISION
2024-EAB-0662

Affirmed
Disqualification

PROCEDURAL HISTORY: On August 13, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer with good cause and was not disqualified from receiving benefits based on the work separation (decision # L0005751079). The employer filed a timely request for hearing. On September 16, 2024, ALJ Mott conducted a hearing and issued Order No. 24-UI-266244, reversing decision # L0005751079 by concluding that claimant quit without good cause and was disqualified from receiving benefits effective June 2, 2024. On September 18, 2024, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Edustaff, LLC employed claimant as an after-school teacher from January 27, 2022, until June 6, 2024.

(2) Claimant taught robotics in the employer's after-school program, which was held at a middle school in the local school district with which the employer was contracted. Claimant typically worked for the employer from 3:00 p.m. to 6:00 p.m., Monday through Thursday.

(3) In early February 2024, claimant was directly hired by the school district as a paraprofessional, working 8:00 a.m. to 3:00 p.m., Monday through Friday, at a different school in the district. Claimant continued to work for the employer in the after-school program after he started the job with the school district. During days when he worked for both employers, claimant would go directly from one job to the next without "any time to like get a snack or anything like that." Transcript at 10.

(4) Shortly after he began the job with the school district, claimant became ill and missed approximately three days of work with the employer. Claimant's understanding of the employer's sick-leave policy was that he was required to email his supervisor, and his supervisor's supervisor, to request the use of sick leave. Claimant did so, but the employer never paid him for his sick leave, despite claimant having had sufficient leave available to cover the absences. Claimant had similar experiences with the employer on

other occasions. On none these occasions did claimant contact the employer's human resources or payroll departments to inquire about being paid for sick leave.

(5) On or around May 5, 2024, claimant decided that he did not want to return to work for the employer in the following school year. Claimant made this decision primarily because he felt that he was "burning [himself] out mentally, physically, everything," by working both of the jobs, and had realized that he could earn enough by only working the one job with the school district. Transcript at 20. Claimant was also frustrated by the employer's failure to pay him the sick leave he had requested, and this contributed to his decision to resign as well.

(6) On May 31, 2024, claimant notified the employer that he intended to resign at the end of the employer's school year, which was June 6, 2024. On June 6, 2024, claimant voluntarily quit working for the employer because he felt overworked by working two jobs and was frustrated by the employer's failure to pay him the sick leave he had requested earlier in the year.

(7) After claimant quit, he learned that he would not be receiving a bonus that the employer had promised they would pay him if he worked through the end of the school year.

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 asserted at hearing that he quit working for the employer for three reasons: feeling overworked by working two jobs, not being paid for sick time that he requested, and not being paid a bonus that the employer had promised him. Transcript at 7. However, as the order under review correctly concluded, the record shows that claimant was not aware of the fact that he would not be getting the promised bonus until after he quit work. Order No. 24-UI-266244 at 3. Therefore, this was not a contributing reason that claimant quit.

To the extent that claimant quit because he felt overworked by working both jobs, claimant did not meet his burden to prove that he faced a grave situation. The record shows that between both jobs, claimant was working a combined 47 hours per week, or seven hours more than the 40 hours per week that a full-time job typically requires. While it is understandable that claimant did not wish to work more than 40 hours per week, claimant gave little evidence to support the proposition that a reasonable and prudent person would have quit rather than continuing to work both jobs. At hearing, claimant suggested that he did not have time to have a snack when going between the two jobs, and reported having felt that he was "burning [himself] out mentally, physically, everything," but did not otherwise describe any specific effects that working both jobs had on his mental or physical well-being. Because claimant did not offer

such evidence, although he had the opportunity to do so, claimant has not shown that working both jobs, at 47 hours per week, constituted a grave situation. Therefore, to the extent that claimant quit for that reason, he did so without good cause.

To the extent that claimant quit because the employer failed to pay him sick time that he had requested, he also failed to show that this was good cause for quitting. To be clear, an employer failing to pay an employee compensation that the employee is owed can be a grave situation. Even if claimant's situation in that regard was grave, however, claimant failed to seek the reasonable alternatives of speaking to the employer's payroll or human resources departments to resolve the matter. At hearing, claimant testified that the employer advised him at the time of hire that to use sick leave, he was required to "e-mail.... my supervisor and also their bosses to let them know that I will be out for the day." Transcript at 16. The employer's witness, by contrast, testified that employees were required to request sick leave by requesting it through the payroll department. Transcript at 27. This does not necessarily contradict claimant's testimony, as claimant may, for instance, simply have been given incorrect information at the time of hire. Nevertheless, even assuming that claimant *was* told only to request sick leave by emailing his supervisor and their supervisors, it would have been reasonable for claimant to escalate the matter to payroll or human resources after getting no resolution from those individuals. Claimant did not offer an explanation at hearing for why he failed to do so. As such, to the extent that claimant quit for this reason, he failed to show he had no reasonable alternative but to quit.

For the above reasons, claimant quit without good cause and is disqualified from benefits effective June 2, 2024.

DECISION: Order No. 24-UI-266244 is affirmed.

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

DATE of Service: October 11, 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 الاستئناف 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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