

EMPLOYMENT APPEALS BOARD DECISION
2024-EAB-0745

Affirmed
No Disqualification

PROCEDURAL HISTORY: On July 22, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit work without good cause, and therefore was disqualified from receiving unemployment insurance benefits effective June 23, 2024 (decision # L0005261929).¹ Claimant filed a timely request for hearing. On September 25, 2024, ALJ Strauch conducted a hearing, and on September 27, 2024 issued Order No. 24-UI-267612, reversing decision # L0005261929 by concluding that claimant voluntarily quit work with good cause, and therefore was not disqualified from receiving benefits based on the work separation. On October 17, 2024, the employer filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Atrium Hospitality, LLC employed claimant from May 8, 2022 through June 24, 2024. The employer operated a chain of hotels, and claimant worked as a breakfast attendant in one of the employer's hotels in Portland, Oregon.

(2) Claimant worked part-time for the employer, approximately 11 hours per week, and was paid \$17 per hour. At the same time, claimant worked full time for another employer, earning \$27 per hour. Claimant considered her part-time work for the employer to be supplemental income, and the earnings from that job were not sufficient to cover claimant's living expenses.

(3) On May 15, 2024, claimant's full-time employer eliminated claimant's position, leaving claimant with no income other than her part-time earnings from the employer. As a result, claimant became unable to cover her living expenses.

(4) After the full-time employer laid her off, claimant sought full-time work elsewhere. Claimant was unable to find work that paid more than about \$17 or \$18 per hour, however, which was not enough to

¹ Decision # L0005261929 stated that claimant was denied benefits from June 23, 2024 to June 21, 2025. However, decision # L0005261929 should have stated that claimant was disqualified from receiving benefits beginning Sunday, June 23, 2024 and until she earned four times her weekly benefit amount. See ORS 657.176.

cover her living expenses. Claimant had enough income saved from the full-time job that she was able to pay her rent for June 2024. However, claimant soon realized that she would not be able to earn enough money to pay her rent for July 2024.

(5) As claimant was facing the likelihood of being unable to continue paying her rent, claimant's sister, who lived in California, offered to allow claimant to move in with her and to cover claimant's living expenses. Claimant accepted her sister's offer.

(6) On or around June 3, 2024, claimant notified the employer that she intended to quit effective June 24, 2024. On June 24, 2024, claimant voluntarily quit work to move in with her sister in California, as claimant could no longer afford to pay her living expenses after the loss of her full-time job.

(7) Prior to quitting, claimant did not ask the employer if she could be assigned full-time work, as it had not occurred to her to do so. Full-time work was not available in the area claimant was working in, however. The only possibility of full-time work for the employer would have been in a different area of the hotel, which would have offered claimant a lower rate of pay than the employer had been paying her.

CONCLUSIONS AND REASONS: Claimant voluntarily quit work with 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 because, after losing her full-time job in May 2024, she became unable to cover her living expenses on the pay she earned from the employer, and remedied her situation by moving to California to live with her sister for free. Because claimant faced a choice between either moving out of state to live with a family member or eventually being evicted from her home in Portland, claimant's situation was grave.

Further, claimant had no reasonable alternative but to quit. The record shows that claimant made an effort to stay in her home in Portland by seeking other full-time work after the loss of her full-time job, but that she was unable to secure work which would have paid enough to cover her expenses. While claimant did not inquire with the employer about working full time for them, this would not have been a reasonable alternative to quitting. The record shows that the only potential opportunity for claimant to work full time for the employer would have been in a different area of the hotel, which would have paid claimant less than the \$17 per hour that the employer had been paying her for part-time work. As this was not sufficient to cover her living expenses, claimant would still have needed to move to California to live with her sister to maintain housing. Therefore, even if such an opportunity were available to claimant, it would not have been a reasonable alternative to quitting.

For the above reasons, claimant voluntarily quit work with good cause, and is not disqualified from receiving unemployment insurance benefits based on the work separation.

DECISION: Order No. 24-UI-267612 is affirmed.

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

DATE of Service: November 14, 2024

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 stated above**. See ORS 657.282. For forms and information, visit <https://www.courts.oregon.gov/courts/appellate/forms/Pages/appeal.aspx> and choose the appropriate form under “File a Petition for Judicial Review.” You may also contact the Court of Appeals by phone at (503) 986-5555, by fax at (503) 986-5560, or by mail at 1163 State Street, Salem, Oregon 97301.

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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 ໄດ້ ໂດຍປະຕິບັດຕາມຄໍາແນະນໍາທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄໍາຕັດສິນນີ້.

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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