

EMPLOYMENT APPEALS BOARD DECISION
2024-EAB-0788

Affirmed
Disqualification

PROCEDURAL HISTORY: On June 10, 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 April 7, 2024 (decision # L0004490109).¹ Claimant filed a timely request for hearing. On October 21, 2024, ALJ Jarry conducted a hearing at which the employer failed to appear, and on October 23, 2024, issued Order No. 24-UI-270378, affirming decision # L0004490109. On November 2, 2024, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Transdev Services, Inc. employed claimant as an assistant general manager from September 1, 2021, until April 5, 2024. The employer provided dispatch services to a regional transit agency.

(2) At hire, claimant worked at the employer's office in Beaverton, Oregon. Claimant rented an apartment in Beaverton where he resided during the week, and spent weekends with his wife and daughter at the family residence in Tacoma, Washington. The employer later reassigned claimant to a call center in Portland, Oregon, but he continued to reside at the Beaverton apartment during the week.

(3) Claimant was unhappy with the call center work and preferred to return to the dispatch work in Beaverton for which he was hired. Claimant inquired about transferring back to that position, but it was not available. Claimant also desired to spend more time at home with his family, particularly his daughter who was to graduate from high school in June 2024. Claimant interviewed for a position at one of the employer's locations in Lynnwood, Washington, which was closer to Tacoma, but he was not selected.

¹ Decision # L0004490109 that claimant was denied benefits from April 7, 2024, to April 5, 2025. However, decision # L0004490109 should have stated that claimant was disqualified from receiving benefits beginning Sunday, April 5, 2024, and until he earned four times his weekly benefit amount. *See* ORS 657.176.

(4) In August 2023, the employer placed claimant on a three-month performance improvement plan (PIP). Claimant felt that the transit agency involved with claimant's work was unfairly critical of the work claimant's team provided and that the PIP was undeserved. Claimant attempted to challenge the PIP but later agreed to it. It was extended an additional month but ultimately completed satisfactorily by the end of 2023.

(5) In late March 2024, claimant gave notice of his intent to quit work effective two weeks later, on April 5, 2024. Claimant quit working on April 5, 2024, and did not work for the employer thereafter. Claimant quit work due to his dissatisfaction with how he was treated by the employer and the regional transit agency during the PIP implementation and thereafter.

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 quit working for the employer because he was dissatisfied with the employer's and the transit agency's evaluations of his work. Though claimant also cited his desire to spend more time with his family in Tacoma as a reason for quitting, he testified that he would not have quit work when he did if he had not felt mistreated in his evaluations. Audio Record at 21:48. Therefore, the focus of the good cause analysis is on claimant's dissatisfaction with the evaluations, which was the reason claimant quit work when he did.

When asked at hearing why he quit work when he did, claimant replied, "My relationship with [the transit agency] and what I'm hearing them say [and] tell my manager." Audio Record at 13:38. Claimant testified that the transit agency managers "didn't appreciate the things that we do" and claimant and his team "did not get a good review" from them. Audio Record at 15:00. This led the employer to place claimant on a PIP in August 2023, which was scheduled to last three months but was extended to four. Claimant testified that he wrote a "dispute" of the PIP, but it was ultimately implemented with his agreement. Audio Record at 19:32. Claimant completed the PIP months before he quit work.

That claimant successfully completed the PIP in late 2023 and was not placed on another thereafter suggests that claimant was capable of meeting the expectations of the transit agency and the employer. It can also reasonably be inferred from this that claimant was not in jeopardy of being discharged when he quit work. Therefore, while claimant may have preferred a different position within the company or with a different employer in which he was not subjected to the transit agency's evaluations, these circumstances were not such that no reasonable and prudent person would have continued to work for their employer for an additional period of time. Accordingly, claimant did not face a grave situation.

For these reasons, claimant voluntarily quit work without good cause and is disqualified from receiving unemployment insurance benefits effective April 7, 2024.

DECISION: Order No. 24-UI-270378 is affirmed.

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

DATE of Service: December 4, 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 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 telephone 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 ໄດ້ໂດຍປະຕິບັດຕາມຄໍາແນະນຳທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄໍາຕັດສິນນີ້.

Arabic

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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.

Employment Appeals Board - 875 Union Street NE | Salem, OR 97311
 Phone: (503) 378-2077 | 1-800-734-6949 | Fax: (503) 378-2129 | TDD: 711
 Email: appealsboard@employ.oregon.gov
 Website: www.Oregon.gov/employ/pages/employment-appeals-board.aspx

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