

EMPLOYMENT APPEALS BOARD DECISION
2024-EAB-0838

Reversed & Remanded

PROCEDURAL HISTORY: On September 4, 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 July 21, 2024 (decision # L0006086957).¹ Claimant filed a timely request for hearing. On December 2, 2024, ALJ Scott conducted a hearing, and on December 3, 2024, issued Order No. 24-UI-275396, affirming decision # L0006086957. On December 10, 2024, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Aramark Corporation employed claimant, most recently as a foodservice manager, from September 2022 through July 24, 2024. The employer contracted with institutional facilities to provide food services. As a manager, claimant worked primarily at Inverness Jail (Inverness), but also sometimes worked at the Multnomah County Detention Center (MCDC) in downtown Portland, Oregon, depending on business needs. As a foodservice manager, claimant reported directly to the foodservice director. The employer did not contract with any other correctional facilities in the Portland area.

(2) On July 1, 2023, claimant took a leave of absence from work and began an approximately three-week stay in an inpatient mental health facility because he was suffering from anxiety disorder. Claimant's mental health condition was caused or exacerbated by stressful working conditions.

(3) In or around late June 2024, claimant logged into a computer he shared with his manager to print some forms. Claimant logged into his manager's account, as she had given him access to it, and her account had the forms claimant needed. While he was logged in, claimant noticed a folder on the computer with his name on it. Curious, claimant clicked on it, and discovered that his manager had

¹ Decision # L0006086957 stated that claimant was denied benefits from July 21, 2024 to August 9, 2025. However, decision # L0006086957 should have stated that claimant was disqualified from receiving benefits beginning Sunday, July 21, 2024 and until he earned four times his weekly benefit amount. See ORS 657.176.

collected several statements made about him by some of the lead workers at Inverness. Those statements included false allegations that claimant had been drinking, using drugs, and “hanging out with employees.” Transcript at 7. Upon discovering that coworkers had made false allegations against him, claimant became upset and reported the matter to the employer’s human resources (HR) department.

(4) The employer’s HR department investigated the allegations against claimant, and determined that they were not substantiated. However, despite having been told by the employee relations department that somebody would contact claimant about his concerns once the investigation had concluded, nobody did so. About two or three weeks after the investigation concluded, claimant sent a follow-up email requesting information about the outcome of the investigation, but he never received a response.

(5) On July 10, 2024, claimant gave the employer two weeks’ notice of his intent to quit. Claimant’s decision to quit was motivated by the false allegations that the lead workers had made against him, and concerns that he could be the subject of similar false allegations in the future. On July 24, 2024, claimant quit work.

(6) Prior to quitting, claimant did not attempt to transfer to a position that would have him working solely at MCDC, although none of the allegations against him were made by anyone working at MCDC.

(7) At the time that he quit, claimant’s job was not in jeopardy, and the employer did not intend to take any action against him because of the lead workers’ allegations against him.

CONCLUSIONS AND REASONS: Order No. 24-UI-275396 is set aside and this matter remanded for further development of the record.

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). Claimant had anxiety disorder, a permanent or long-term “physical or mental impairment” as defined at 29 CFR §1630.2(h). A claimant with an impairment who quits work must show that no reasonable and prudent person with the characteristics and qualities of an individual with such an impairment would have continued to work for their employer for an additional period of time.

Claimant quit work because of a series of false allegations that lead workers at his main work location (Inverness) made against him, and related concerns that he could be subject to similar allegations in the future. The order under review concluded that this did not constitute a grave reason for quitting and that, even if it did, claimant failed to seek reasonable alternatives to quitting. Order No. 24-UI-275396 at 4. The record as developed does not support this conclusion.

The record shows that claimant suffered from an anxiety disorder that was serious enough to require a three-week stay at an inpatient facility in July 2023, brought on at least in part by work-related issues. Claimant broadly explained that these issues consisted of “one problem after another,” including feeling

like his manager was not providing him with adequate management training, concerns regarding working at both Inverness and MCDC, and not feeling “part of the management team” because of communication issues. Transcript at 5–7. The record suggests that some or all of these concerns persisted into 2024.

Claimant ultimately quit because of the false allegations made against him. However, claimant’s explanation at hearing that the allegations made him feel like he was not “safe” suggests that the possibility of having further allegations raised against him exacerbated his anxiety disorder in a similar way. Transcript at 10. If both the false allegations and the collection of other assorted concerns were *all* exacerbating claimant’s mental health condition at the time he quit, these other concerns may have been relevant to claimant’s decision to quit. On remand, the record should be developed to show in better detail what those concerns were and which, if any, persisted through the time that claimant quit. Inquiry also should be made as to what steps, if any, claimant took or attempted to take to mitigate any of these concerns.

It is also necessary to determine the specific effects that any exacerbation of claimant’s anxiety disorder had on him around the time that he quit, so as to determine whether a reasonable and prudent person with a similar condition would have concluded that they had no reasonable alternative but to do so. Inquiry therefore should be made into how the false allegations specifically affected claimant, how the other assorted concerns were affecting claimant at the time that he quit, and whether he took any steps (such as continued mental health treatment) to address any such effects on his health.

Finally, the record requires further development to determine whether transferring to a different position or location would have been a reasonable alternative to quitting. At hearing, claimant’s supervisor testified that it might have been possible for claimant to transfer to working solely at MCDC, as all of the people who had filed complaints against him worked at Inverness. Transcript at 30. Claimant testified that he did not do because he was “having problems” at MCDC as well. Transcript at 17.

On remand, inquiry should be made as to what other “problems” claimant was having at MCDC and whether, despite those problems, transferring to position solely at MCDC would have been a reasonable alternative to quitting. The ALJ should also inquire as to whether it would have been possible for claimant to transfer to any non-correctional institutions the employer might have contracted with and, if so, whether doing so would have been a reasonable alternative to quitting.

ORS 657.270 requires the ALJ to give all parties a reasonable opportunity for a fair hearing. That obligation necessarily requires the ALJ to ensure that the record developed at the hearing shows a full and fair inquiry into the facts necessary for consideration of all issues properly before the ALJ in a case. ORS 657.270(3); *see accord Dennis v. Employment Division*, 302 Or 160, 728 P2d 12 (1986). Because further development of the record is necessary for a determination of whether claimant quit work with good cause, Order No. 24-UI-275396 is reversed, and this matter is remanded.

DECISION: Order No. 24-UI-275396 is set aside, and this matter remanded for further proceedings consistent with this order.

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

DATE of Service: January 9, 2025

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 24-UI-275396 or return this matter to EAB. Only a timely application for review of the subsequent order will cause this matter to return to EAB.

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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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