

EMPLOYMENT APPEALS BOARD DECISION
2024-EAB-0846

Affirmed
Disqualification

PROCEDURAL HISTORY: On July 29, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit work without good cause and was disqualified from receiving unemployment insurance benefits effective January 14, 2024 (decision # L0005428330).¹ Claimant filed a timely request for hearing. On December 2, 2024, ALJ Ensign conducted a hearing, at which the employer failed to appear, and on December 5, 2024, issued Order No. 24-UI-275684, affirming decision # L0005428330. On December 14, 2024, claimant filed an application for review of Order No. 24-UI-275684 with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Rivermark Community Credit Union employed claimant as a member service representative from December 5, 2022, until January 17, 2024. Claimant worked remotely for the employer and his main work task was to take customer calls.

(2) Throughout his employment, claimant suffered from depression and anxiety.

(3) On September 30, 2023, claimant's grandfather passed away, which worsened claimant's depression and anxiety. After the passing of claimant's grandfather, claimant coordinated with the employer's human resources (H.R.) office to take bereavement leave.

(4) During claimant's employment, the employer had difficulty staffing a supervisor to oversee claimant's work. Claimant was initially supervised by the department head who managed claimant's entire department, then had a supervisor for a brief period, then was overseen again by the Department head until the last month or two of his employment. During the last month or two of claimant's employment, he had a new supervisor who oversaw his work.

¹ Decision # L0005428330 stated that claimant was denied benefits from July 7, 2024, to July 5, 2025. However, because claimant's work separation occurred on January 17, 2024, the decision should have stated that claimant was disqualified from receiving benefits beginning Sunday, January 14, 2024, and until he earned four times his weekly benefit amount. *See* ORS 657.176.

(5) By the beginning of January 2024, the length of claimant's customer calls often ran long and did not meet the employer's metrics for call times. On or about January 12, 2024, claimant asked his supervisor where he could shave off time and meet the employer's metrics, but he was told he was doing fine and not to worry about it.

(6) On or about January 15, 2024, claimant's supervisor held a meeting with claimant. The supervisor told claimant that he would probably have to go back to working in the office if his call times did not improve. The employer also mentioned that if the call times did not improve, claimant must go through call training again or his employment might be terminated. Claimant was concerned that working in the office instead of remotely would worsen his anxiety because of the potential of having to commute to the office at night or at times with dangerous winter road conditions.

(7) By mid-January 2024, claimant's mental health "was in a really, really rough place." Audio Record at 9:33. The possibility of returning to office had worsened claimant's depression and anxiety. Claimant believed he was receiving a "back and forth" from the employer by, on the one hand, being told his metrics were fine when he asked where he could shave off time, and, on the other hand, being told in the meeting that his call times were too long. Audio Record at 11:03. This, along with the difficulty the employer had had in staffing a supervisor to oversee claimant's work, also contributed to a decline in claimant's mental health condition.

(8) On January 17, 2024, claimant quit working for the employer. At that time, claimant's mental health had declined such that he had difficulty sleeping, eating, and maintaining focus. Claimant also contemplated suicide at this time.

(9) Prior to claimant's resignation, he did not contact the employer's H.R. office to request a medical leave of absence. Claimant also did not seek medical treatment for his depression and anxiety prior to leaving work.

CONCLUSIONS AND REASONS: Claimant voluntarily left 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). Claimant had depression and anxiety, permanent or long-term "physical or mental impairment[s]" 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.

At hearing, claimant testified that the main reason he left work on January 17, 2024, was that his mental health "was in a really, really rough place." Audio Record at 9:33. Claimant said that his mental health declined because of his grandfather's passing, the possibility of having to return to office, and the "back and forth" he believed he was receiving from the employer regarding the length of his call times. Audio

Record at 9:52, 10:23. Claimant also suggested that the employer's difficulty staffing a supervisor to oversee claimant's work factored into his decision to quit. Audio Record at 23:25. Further, claimant testified that had his supervisor not told him that he would probably have to return to the office if his call times did not improve, claimant would not have quit when he did. Audio Record at 15:39.

To the extent that claimant quit work because of his mental health condition, he quit without good cause. This is so because, although his situation was grave, claimant did not pursue reasonable alternatives to leaving work. Claimant's mental health condition contributed to his situation of gravity. At the time claimant quit, his mental health had declined substantially and he had difficulty sleeping, eating, and maintaining focus. Claimant also contemplated suicide at this time. Claimant attributed the decline of his mental health to aspects of his work, such as the "back and forth" he perceived he was receiving from the employer regarding the length of his call times, the possibility he might have to return to the office, and the difficulty the employer had had staffing a supervisor to oversee claimant's work. Audio Record at 10:23. Because claimant's mental health decline was tied to aspects of work, leaving work likely would have benefitted him. *See Oregon Public Utility Commission v. Employment Dep't.*, 267 Or App 68, 340 P3d 136 (2014) (for a claimant to have good cause to voluntarily leave work, the claimant must derive some benefit for leaving work).

However, claimant did not have good cause to quit for this reason because he did not pursue reasonable alternatives prior to leaving work. Prior to claimant's resignation, he did not contact the employer's H.R. office to request a medical leave of absence. Claimant's mental health would likely have been regarded as a serious health condition sufficient to take a medical leave of absence. Further, there is reason to believe that the employer's H.R. office would be responsive to a request for a medical leave of absence given that claimant had previously worked with them to take bereavement leave following his grandfather's passing. Claimant also did not obtain medical help for his mental health prior to leaving work. Accordingly, claimant voluntarily left work without good cause to the extent he left work due to the impact of his work on his mental health.

To the extent that claimant left work because of the "back and forth" he perceived he was receiving from the employer regarding the length of his call times, claimant voluntarily left work without good cause. Audio Record at 10:23. The record shows that on or about January 12, 2024, claimant asked for help reducing his call times, and was told not to worry about it. A few days later, claimant was told in a meeting that he would probably have to go back to the office if his call times did not improve. This sequence of events gave claimant unclear signals and was understandably frustrating. Still, the final position taken by the employer was that claimant needed to improve his call times, and there is no indication that they wavered from that position thereafter. It was incumbent on claimant then, after the employer took this latter position, to ask for help reducing his call times. While the fact that the employer reversed themselves was frustrating, a reasonable and prudent person with the characteristics and qualities of a person with claimant's impairments would not quit work for this reason.

To the extent claimant left work because the employer had difficulty staffing a supervisor to oversee claimant's work during claimant's employment, claimant left work without good cause. Claimant did not show that he faced a grave situation because his work had been overseen by the department head at times during his employment. Further, the record shows that claimant had a dedicated supervisor during the last month or two of his employment. A reasonable and prudent person with the characteristics and qualities of a person with claimant's impairments would not quit work for this reason.

Similarly, to the extent claimant left work because he faced the possibility of having to return to working in the office, claimant left work without good cause. At the time claimant quit, the employer had not yet concluded that claimant would be required to return to the office. At hearing, claimant testified that his supervisor told him this would “probably” happen “if things didn’t get better with call times.” Audio Record at 14:33. Therefore, it is possible that, with improved call times, claimant could have continued working remotely. Claimant did not show that the possibility that he may have to return to the office was a reason of such gravity that he had no reasonable alternative but to leave work when he did.

For these reasons, claimant voluntarily left work without good cause and is disqualified from receiving unemployment insurance benefits effective January 14, 2024.

DECISION: Order No. 24-UI-275684 is affirmed.

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

DATE of Service: January 14, 2025

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 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 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 دستورالعمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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