

### APPEAL TRIBUNAL DECISION

**Docket Number:** 20 1091 **Hearing Date:** August 20 , 2020

**CLAIMANT APPEARANCES: EMPLOYER APPEARANCES:**

MARK A EHMANN PEAK OILFIELD SVCS

**CLAIMANT APPEARANCES: EMPLOYER APPEARANCES:**

Mark Ehmann Amanda Axel

Marie Clement

#### CASE HISTORY

The claimant appealed a July 9, 2020, determination that denied benefits under AS 23.20.379. The issue is whether the claimant had good cause to voluntarily quit suitable work.

#### FINDINGS OF FACT

The claimant began work for the employer in February 2020. He last worked on March 20, 2020. The work was located in Prudhoe Bay, Alaska. He worked on a construction crew.

Because of the COVID-19 pandemic, and the related shelter-in-place health mandates by mid-March, flights out of Prudhoe Bay were being cancelled or were difficult for employees to get a seat on the crowded planes that were leaving. In fact, there were employees that were stranded in Prudhoe Bay for several weeks due to the shortage of flights. The claimant was able to fly out of Prudhoe Bay on March 20, 2020. At the time, the employer was in the process of reducing its work force. On March 22, the employer notified the claimant by letter that he was laid off due to the pandemic. Many other workers were also notified of being laid off at the time, as the employer’s business contracts were being cancelled.

#### PROVISIONS OF LAW

**AS 23.20.379 provides in part:**

(a) An insured worker is disqualified for waiting-week credit or benefits for the first week in which the insured worker is unemployed and for the next five weeks of unemployment following that week if the insured worker...

1. left the insured worker's last suitable work voluntarily without good cause....

**8 AAC 85.095 provides in part:**

(c) To determine the existence of good cause under AS 23.20.379(a)(1) for voluntarily leaving work determined to be suitable under

AS 23.20.385, the department will consider only the following factors:

(1) leaving work due to a disability or illness of the claimant that makes it impossible for the claimant to perform the duties required by the work, if the claimant has no other reasonable alternative but to leave work;

(2) leaving work to care for an immediate family member who has a disability or illness;

(3) leaving work due to safety or other working conditions or an employment agreement related directly to the work, if the claimant has no other reasonable alternative but to leave work;

(4) leaving work to accompany or join a spouse at a change of location, if commuting from the new location to the claimant’s work is impractical; for purposes of this paragraph, the change of location must be as a result of the spouse’s

(A) discharge from military service; or

(B) employment;

(5) leaving unskilled work to attend a vocational training or retraining course approved by the director under AS 23.20.382, only if the claimant enters the course immediately upon separating from work;

(6) leaving work in order to protect the claimant or the claimant’s immediate family members from harassment or violence;

(7) leaving work to accept a bonafide offer of work that offers better wages, benefits, hours, or other working conditions; if the new work does not materialize, the reasons for the work not materializing must not be due to the fault of the worker;

(8) other factors listed in AS 23.20.385(b).

**AS 23.20.385(b) provides, in part:**

(b) In determining whether work is suitable for a claimant and in determining the existence of good cause for leaving or refusing work, the department shall, in addition to determining the existence of any of the conditions specified in (a) of this section, consider the degree of risk to the claimant's health, safety, and morals, the claimant's physical fitness for the work, the claimant's prior training, experience, and earnings, the length of the claimant's unemployment, the prospects for obtaining work at the claimant's highest skill, the distance of the available work from the claimant's residence, the prospects for obtaining local work, and

other factors that influence a reasonably prudent person in the claimant's circumstances.

#### CONCLUSION

The claimant was in the process of being laid off in a reduction in force, as were many others in Prudhoe Bay, Alaska. Transportation became scarce. There were rumors about when a shutdown might occur. His employer was forthright about flights being canceled.

The Tribunal concludes the claimant voluntarily left his employment with good cause. The penalties of AS 23.20.379 will not be imposed.

#### DECISION

The determination issued on July 9, 2020 is **REVERSED.** Benefits are **ALLOWED** for the weeks ending March 28, 2020 through May 2, 2020, if otherwise eligible. The three weeks are not reduced from the claimant’s maximum benefits. The determination will not interfere with the claimant’s eligibility for extended benefits under AS 23.20.406-409.

#### APPEAL RIGHTS

This decision is final unless an appeal is filed in writing to the Commissioner of Labor and Workforce Development **within 30 days** after the decision is mailed

to each party. The appeal period may be extended only if the appeal is delayed for circumstances beyond the party’s control. A statement of rights and procedures is enclosed.

Dated and mailed on August 25, 2020.

bb

Michael Swanson, , Appeals Officer