

### APPEAL TRIBUNAL DECISION

**Docket Number:** 20 1225 **Hearing Date:** September 11, 2020

**CLAIMANT: EMPLOYER:**

JOANNE PIPPENGER SUBURBAN PROPANE

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**CLAIMANT APPEARANCES: EMPLOYER APPEARANCES:**

Joanne Pippenger Eric Allen

Paula Gallagher

Christina Wood

#### CASE HISTORY

The claimant appealed a July 30, 2020, determination that denied benefits under AS 23.20.379. The issue is whether the claimant had good cause to voluntarily quit suitable work, was discharged for work connected misconduct, or was laid off.

#### FINDINGS OF FACT

The claimant began work for the employer in April 2019. She last worked in the middle of December 2019. She worked in the employer’s office.

The claimant went on vacation. She was scheduled to return to work December 30, 2019, however, instead she quit. She informed her manager. She provided written notice of her resignation, however, the manager never received it. She did not attend work and the employer consider her to have abandoned her position.

The claimant took the action she did because she could not get along with a coworker. The coworker tried to bully her, threatening to have her fired and interfering with her work. For example, towards the end of the claimant’s employment, the coworker tossed closing information on the claimant’s desk without informing the claimant there was a check attached. The check went missing, but was later found on the office floor. The claimant was blamed for this as a cash handling problem, whereas it was not her fault at all. The coworker accused the claimant of flirting with customers. The claimant denied the accusation. The coworker said she was stupid and selfish because she did not clock out at closing while still helping customers. The claimant complained to the manager about the working environment. Things would improve but quickly become tense again.

#### 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 Tribunal concludes that the evidence supports the conclusion that the clamant was not discharged from her work with this employer but rather quit. She must establish good cause for doing so to avoid disqualification.

The claimant’s sworn testimony is that she quit work due to on-going strife with a coworker. She complained about the situation to her manager. Nothing changed for long. The claimant’s witnesses confirmed the difficult environment.

Under these circumstances, the claimant’s separation from work was not because of for good cause. A penalty is not in order.

#### DECISION

The determination issued on July 30, 2020 is **REVERSED.** Benefits are **ALLOWED** under AS 23.30.379 for the weeks ending January 4, 2020 through February 8, 2020, if the claimant has filed and is otherwise eligible. The three weeks are restored to 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 September 16, 2020.

Michael Swanson, , Appeals Officer