

### APPEAL TRIBUNAL DECISION

**Docket Number:** 20 1254 **Hearing Date:** September 11, 2020

 November 2, 2020

**CLAIMANT: EMPLOYER:**

MICHAEL W BALL CITY OF SAXMAN

**CLAIMANT APPEARANCES: EMPLOYER APPEARANCES:**

Michael Ball Lorrie Richmond, city manager Roxanne Byron, assistant manager

#### CASE HISTORY

The employer appealed a notice of determination issued on July 24, 2020 which allowed the claimant 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 in early February 2020. He did maintenance and repair work. He worked seven days, last working on February 19, 2020.

The claimant had problems with his immediate supervisor, the assistant city manager. He considered her disrespectful and sarcastic. She tried to micromanage him like he was a teenager, giving him a ‘to do’ lists and ordering him around. He has 35 years experience in his field.

As a temporary employee the claimant did not have keys. He wanted keys so he could get at his tools and supplies. The city manager agreed but his supervisor refused to provide him with keys. One day, his supervisor heard him rattle the door and knock but he went away before she answered the door. Hecomplained about this to the city manager. Nothing was done.

He used his own tools although the city manager had promised the city would buy him the tools he needed. He used his own car to get to the port, whereas the city manager had also told him he could use a city vehicle. The vehicle turned out to need repairs. The claimant wanted a flexible work schedule because he cared for his granddaughter, however, the city manager had only accommodated his work schedule by allowing him to start later in the morning. It was also agreed that he would do certain projects at his home shop.

On his last day of work, he had worked at his shop and wanted to sign out from work the next day. His supervisor demanded he sign out in person. He returned to the city office and had a conversation with his supervisor, eventually telling her she was not “a people person,” to which she replied something about him kissing her a\_\_s. She raised her voice with this but had not otherwise cursed or called him names. At the time, the city manager was out of town. Because of her “lackluster” response to his complains about his supervisor, he decided not to return to work.

The claimant testified his supervisor treated others poorly and was known as a ‘terrible supervisor.” He also testified about having an unspecified disability. He did not explain how this was a part of his decision to quit work.

The employer believed the claimant did not want to be supervised and needed to learn how to take direction.

#### 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 work was occupationally suitable for the claimant.

The claimant left this employment because of his treatment by his supervisor. Many of his complaints about her supervision were well within the scope of normal supervision, e.g. a list of things to do, when and how to clock in and out, when to start the work day. Maybe she was a micromanager as the claimant alleged, but this is nothing to quit work over. He alleged she treated everyone poorly. It was her management style and it has not been shown to be so harassing toward him or others as to give the claimant cause to quit.

*A worker does not have good cause to quit if the supervisor is merely "demanding," if it is the supervisor's "style of supervision" and the supervisor acts similarly to all employees. In Griffith, Comm. Dec. 8822158, December 20, 1988, or if the supervisor is merely "difficult and overbearing at times." Hlawek, Comm. Dec. 9213608, April 16, 1992. In addition, the worker must make a reasonable attempt to resolve the matter prior to leaving work. Griffith, Comm. Dec. 8822158, December 20, 1988, aff'd Griffith v. State Department of Labor, Alaska Superior Court, No. 4FA-89-0120 Civil, September 25, 1989.*

The claimant considered his supervisor disrespectful. He pointed to the last conversation he had with her in which she told him to “kiss her a\_\_.” Very disrespectful. On the other hand, this Tribunal considers his statement to her immediately preceding this about not being a people person, to be, at the very least, sarcastic and contentious.

The claimant mentioned a disability but did not explain how this caused him to quit work.

Regulation 8 AAC 85.095(c) provides seven reasons that the Department will consider when determining good cause for voluntarily leaving work.

The claimant’s treatment by the supervisor has not risen to a level this Tribunal regards as threatening his health, safety, morals, or made for a hostile environment in general, which might provide good cause for quitting work. A penalty under AS 23.20.379 must be applied.

#### DECISION

The determination issued on July 24, 2020 is **REVERSED**. Benefits are **DENIED** for the weeks ending February 22, 2020 through March 28, 2020.

The maximum benefit entitlement is reduced by three weeks. Further, the claimant may not be eligible for future extended benefits.

#### APPEAL RIGHTS

This decision is final unless an appeal is filed 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 appeal rights and procedures is enclosed.

Dated and Mailed in Alaska on November 5, 2020.

 Michael Swanson,

 Appeals Officer