
### APPEAL TRIBUNAL DECISION

**Docket number:** 21 0463 **Hearing date:** September 2, 2021

**CLAIMANT: EMPLOYER:**

CARLA OLIVER CAMP FIRE ALASKA COUNCIL

**CLAIMANT APPEARANCES: EMPLOYER APPEARANCES:**

Carla Oliver Wayne Stander

 Salwa Abuamsha

#### CASE HISTORY

The claimant timely appealed a March 10, 2021 determination which denied benefits under Alaska Statute 23.20.379. The issue before the Appeal Tribunal is whether the claimant voluntarily quit suitable work without good cause.

#### FINDINGS OF FACT

The claimant began work for the employer in 1989. She last worked on June 30, 2020. At that time, she worked full time as a finance director.

The claimant informed the employer in August 2018 that she planned to leave the work. The claimant informed the employer at that time so they could budget for finding a replacement in the coming fiscal year. The claimant committed to staying in her position until the fiscal year 2019 was complete, including audits scheduled for April 2020 and an IRS report to be submitted after that date.

The claimant had decided she wanted to stay home and provide care to her mother, who has advancing dementia. The claimant had been called to leave work to pick her mother up because her mother had become lost and the claimant saw a need for more and more care being required as her mother’s dementia progressed. In November 2019, the claimant’s mother fell and injured herself and required full-time care. The claimant paid $6,000 per month for a person to provide care for eight hours per day while she was healing from her injury. The claimant knew she could not afford to pay for care for her mother in the long term. The claimant’s mother did not recover from her injury to the point she could live independently. The claimant is required to administer her mother’s medications, cook for her, and take her mother to medical appointments and well as orient her and help with mobility issues.

The claimant finished the work she had committed to, and let the employer know June 30, 2020 would be her last day of work. The claimant then packed and sold two houses, shipped vehicles and obtained a passport for her mother. The claimant departed Alaska August 15, 2020 to relocate to an area with a lower cost of living, so she could afford to stay home and provide care for her mother, while getting by on her husband’s pension income.

#### 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 in this case gave the employer advance notice that she would be leaving work to provide care for her mother, who has advancing dementia.

Regulation 8 AAC 85.095(c)(1) holds that a claimant may have good cause to leave work to provide care for a member of their immediate family who has a disability or illness. The claimant provided almost two years notice that she was leaving the work because she saw that her mother’s condition was progressing and she would someday soon need full care. The claimant’s mother did require full care by the time the claimant left the work.

The Tribunal finds the claimant voluntarily left work to provide care to a family member with an illness or disability, which is good cause. The penalties of AS 23.20.379 are not appropriate.

#### DECISION

The determination issued on March 10, 2021 is **REVERSED.** Benefits are **ALLOWED** for the weeks ending July 4, 2020 through August 8, 2020, if 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 9, 2021.

 Rhonda Buness, Appeals Officer