

### APPEAL TRIBUNAL DECISION

**Docket number:** 21 1304 **Hearing date:** January 4, 2022

**CLAIMANT: EMPLOYER:**

SHANNON SLAGLE PEACE HEALTH

**CLAIMANT APPEARANCES: EMPLOYER APPEARANCES:**

Shannon Slagle None

#### CASE HISTORY

The claimant timely appealed a May 13, 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 August 2020. She last worked on February 18, 2021. At that time, she worked full-time as a patient access representative.

In October 2020 the claimant lost her brother to suicide. She was only able to take 4-5 days off for her brother’s funderal at that time. The employer was understaffed because of the COVID-19 pandemic and some recent staff retirements. The employer declined the claimant’s request to change to part-time work. The claimant’s request to take time off in January was refused. The claimant had not worked long enough to be eligible for leave under the Family Medical Leave Act.

The claimant was stressed, which caused physical issues and an inability to focus on her work. She worked directly with patients, and she feared her stress would negatively affect patient interactions. The claimant was under care of a therapist and was taking prescribed medication. The claimant was not advised by a health care provider to leave the work. The employer did not counsel the claimant about any performance issues.

The claimant decided to resign to take time to grieve and get her stress under control. She gave two weeks notice and worked until her last scheduled day.

#### 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 voluntarily quit work because she was grieving, and it affected her work caused her stress with physical symptoms.

Regulation 8 AAC 85.095(c) provides seven reasons that the Department will consider when determining good cause for voluntarily leaving work, including 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. The claimant in this case did not establish that it was impossible to perform the duties of her work. The employer had not counseled the claimant about her performance and her healthcare provider did not advise she leave the work.

The regulation also directs the Department to consider the suitability of the work as laid out in AS 23.20.385(b). The claimant did not establish that the work was a risk to her health, safety or morals, or that she was not physically fit for the work. This leaves the Tribunal to consider other factors that would influence a reasonably prudent person in the claimant’s circumstances.

In Missall, Com. Dec. 8924740, April 17, 1990, the Commissioner of Labor summarized Department policy regarding what constitutes good cause for voluntarily leaving work. The Commissioner held, in part:

*The basic definition of good cause is 'circumstances so compelling in nature as to leave the individual no reasonable alternative.' (Cite omitted.) A compelling circumstance is one 'such that the reasonable and prudent person would be justified in quitting his job under similar circumstances.' (Cite omitted). Therefore, the definition of good cause contains two elements; the reason for the quit must be compelling, and the worker must exhaust all reasonable alternatives before quitting.*

Although the claimant’s decision to quit work and allow herself time for grieving is understandable, it does not rise to the level of good cause for unemployment purposes. The Tribunal concludes the penalties of AS 23.20.379 are appropriate.

#### DECISION

The determination issued on May 13, 2021 is **AFFIRMED.** Benefits remain **DENIED** for the weeks ending February 27, 2021 through April 3, 2021. The three weeks remain reduced from the claimant’s maximum benefits. The claimant may not be eligible 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 February 1, 2022.

Rhonda Buness, Appeals Officer