

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL  
FROM THE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT**

In the Matter of )  
 )  
CAROL CHRISTIAN ) OAH No. 21-2316-LUI  
 ) Agency No. 21 1110 10  
\_\_\_\_\_ )

**APPEAL DECISION**

**Docket Number:** 21 1110 10

**Hearing Date:** January 3, 2022

**CLAIMANT APPEARANCES:**

**EMPLOYER APPEARANCES:**

Carol Christian (claimant)

None

**CASE HISTORY**

The claimant in this case, Carol Christian, appealed a May 21, 2021, non-monetary determination. The determination concluded that she voluntarily quit her job with the Lower Kuskokwim School District, without good cause. As such, it held that she was ineligible for Unemployment Insurance benefits per AS 23.20.379. Ms. Christian appealed that determination, and the Department of Labor and Workforce Development referred the appeal to the Office of Administrative Hearings. Under the agreed terms of referral, an administrative law judge hears and decides the appeal under procedures specific to UI appeals. AS 44.64.060 procedures do not apply.

The matter was heard in a recorded telephonic hearing on January 3, 2022. The Lower Kuskokwim School District did not name a representative or participate at the hearing, although attempts were made to reach it by phone. Ms. Christian participated and provided testimony, under oath. The issue on appeal is whether Ms. Christian voluntarily quit her employment without good cause.

**FINDINGS OF FACT**

Ms. Christian was employed fulltime as a special education teacher with the Lower Kuskokwim School District in Bethel from 2017, until February 12, 2021.<sup>1</sup> She began having medical issues with her legs in early 2020. Because she could no longer walk, she had to get a wheelchair and take a cab everywhere. Despite these medical difficulties, she was able to continue working.<sup>2</sup>

As Ms. Christian confirmed what caused her to quit her job with the District was changes in her housing situation. Immediately prior to quitting her position, her roommate in her rental unit moved out after the two of them had some personal issues. When that occurred, it forced Ms. Christian to be responsible for all the rent and all the utilities for the unit. Due to her limited income, she was unable to continue in the unit on her own after her roommate left. Also, because it is extremely difficult for tenants to locate housing in Bethel, she testified that there was no

<sup>1</sup> Ex. 1, pp. 7-9; Carol Christian Testimony.

<sup>2</sup> Carol Christian Testimony.

opportunity for her to locate other housing or any options for her to remain in Bethel. She says she was left with no choice but to leave Bethel or else she would have been out on the street.<sup>3</sup>

On May 21, 2021, the Department's UI claim center issued a notice of non-monetary determination. It concluded that Ms. Christian voluntarily left her employment due to problems associated with housing difficulties. It also concluded that the circumstances surrounding her leaving employment did not establish good cause for quitting. Accordingly, her benefits were denied.<sup>4</sup> Ms. Christian timely appealed that determination.<sup>5</sup>

### **EXCERPTS OF RELEVANT PROVISIONS OF LAW**

#### **AS 23.20.379(a) - Voluntary Quit, Discharge For Misconduct, and Refusal of Work**

- (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....
  
- (c) The department shall reduce the maximum potential benefits to which an insured worker disqualified under this section would have been entitled by three times the insured worker's weekly benefit amount, excluding the allowance for dependents, or by the amount of unpaid benefits to which the insured worker is entitled, whichever is less.

#### **8 AAC 85.095 - Voluntary Quit, Discharge for Misconduct, and Refusal to Work**

- (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;

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<sup>3</sup> Carol Christian Testimony.

<sup>4</sup> Ex. 1, p. 3.

<sup>5</sup> Ex. 1, p. 1.

- (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) - Suitable Work**

- (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.

#### **APPLICATION**

The issue in this case is whether Ms. Christian had good cause to voluntarily quit her employment with the District. In *Ostrowski*, Comm'r Dec. 01 0437, June 11, 2001, the Commissioner affirmed the long-held standard applied to voluntary leaving issues:

The Department has consistently held that once having voluntarily quit, it is the burden of the claimant to establish good cause for quitting. *Fogleson*, Comm'r Dec. 8822584, February 28, 1989. The basic definition of good cause is circumstances so compelling in nature as to leave the individual no reasonable alternative but to quit at the time he did. A compelling circumstance is one such that the reasonable and prudent person would be justified in quitting his job under similar circumstances. 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. *Missall*, Comm'r

Dec. 8924740, April 17, 1990.

In this instance, that burden has not been satisfied.

8 AAC 85.095(c) provides factors to consider in determining whether good cause exists for a claimant to voluntarily quit. Difficulties in obtaining or maintaining housing is not a factor that is considered.

It is certainly understood that when her roommate left, it placed Ms. Christian in a difficult position. However, there is a question as to whether Ms. Christian did everything reasonably possible to locate a new roommate or alternative housing in Bethel. From her testimony, it appears that her efforts on both counts were very limited. But, even assuming that Ms. Christian did do everything possible to find a new roommate or alternative housing, she has still failed to demonstrate good cause for voluntarily quitting.


While Ms. Christian suggested that she left work because of her medical issues related to her mobility and legs, she nevertheless admitted that, had her roommate not moved out, she would have continued working for the District. In other words, it was her roommate leaving that was the impetus for her voluntarily quitting her employment, not her medical issues.

Because Ms. Christian's difficulty in continuing to obtain housing is not a factor to consider in establishing good cause to quit her employment under 8 AAC 85.095(c), no good cause exists in this instance. Consequently, her UI benefits were properly denied.

#### **DECISION**

The Division's May 21, 2021, notice of non-monetary determination is **AFFIRMED**.

DATED February 18, 2022.

  
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Z. Kent Sullivan  
Administrative Law Judge

**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.

**CERTIFICATE OF SERVICE**

I certify that on February 18, 2022, this document was sent to: Carol Christian (by mail and email); Lower Kuskokwim School District (by mail); and a courtesy copy to the DETS UI Appeals Team and DETS UI Technical Team (by email).

  
Office of Administrative Hearings



*Alaska Department of Labor and Workforce Development  
Appeals to the Commissioner \_*

Please read carefully the enclosed Appeal Tribunal decision. Any interested party (claimant or the Division of Employment and Training Services [DETS]) may request that the Commissioner accept an *appeal* against the decision (AS 23.20.430-435 and 8 AAC 85.154-155).

A Commissioner appeal must be filed within 30 days after the Appeal Tribunal decision is mailed to a party's last address of record. The 30-day period may be extended for a reasonable time if the appealing party shows that the appeal was late due to circumstances beyond the party's control.

A Commissioner appeal must be in writing and must fully explain your reason for the appeal. You or your authorized representative must sign the appeal. All other parties will be sent a copy of your appeal. Send Commissioner appeals *to the Commissioner's Hearing Officer* at the address below.

A Commissioner appeal is a matter of right if the Appeal Tribunal decision reversed or modified a DETS determination. If the Appeal Tribunal decision did not modify the DETS determination, the Commissioner is not required to accept the appeal. If the appeal is accepted, the Commissioner may affirm, modify, or reverse the Appeal Tribunal decision. The Commissioner may also refer the matter back to the Appeal Tribunal for another hearing and/or a new decision. The Commissioner will issue a written decision to all interested parties. The Commissioner decision will include a statement about the right to appeal to Superior Court.

Any party may present *written argument* to the Commissioner stating why the Appeal Tribunal decision should or should not be changed. Any party may also request to make an *oral argument*. Written argument and/or a request for oral argument should be made when you file an appeal or immediately after you receive notice that another party filed an appeal. You must supply a written argument or a request for oral argument promptly, because neither will likely be considered after the Commissioner issues a decision.

**ALASKA DEPARTMENT OF LABOR  
AND WORKFORCE DEVELOPMENT  
COMMISSIONER'S HEARING OFFICER**

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