

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

In the Matter of)
)
CAROL HATFIELD) OAH No. 22-0591-LUI
) Agency No. 22 0540 10

APPEAL DECISION

Docket Number: 22 0540 10

Hearing Date: July 14, 2022

CLAIMANT APPEARANCES:

Carol Hatfield

EMPLOYER APPEARANCES:

Ray Esparza Lopez, Human Resources
Manager for Vitus Marine, LLC

CASE HISTORY

The claimant in this case, Carol Hatfield, appealed a May 24, 2022, non-monetary determination. The determination concluded that she voluntarily quit her position, with Vitus Marine, LLC, without good cause. As such, it held that she was ineligible for Unemployment Insurance benefits per AS 23.20.379. 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 July 14, 2022. Ms. Hatfield provided testimony under oath. Ray Lopez, the Human Resources Manager for Vitus Marine also appeared and testified under oath. The issue on appeal is whether she voluntarily quit her employment without good cause.

FINDINGS OF FACT

Ms. Hatfield was employed fulltime as a cook at a restaurant operated by Vitus Marine from August 16, 2020, until April 20, 2022. Her responsibilities included opening and closing the restaurant daily, cooking, and prepping homemade soups and menu specials, stocking, customer relations, sweeping, mopping, doing dishes, garbage detail, and occasionally serving as cashier. When she initially began in this role, the cook duties at the restaurant were shared by three separate employees. However, by the time she left Vitus in April 2020, Ms. Hatfield was the only cook and her required hours and responsibilities at the restaurant had increased dramatically. Because of these increased duties and obligations, as of April 2020, Ms. Hatfield was frequently working 1-2 hours of overtime daily.¹

At roughly noon on April 20, 2022, a little over an hour after her shift began, Ms. Hatfield was approached by her manager and the issue of overtime was discussed.

¹ Ex. 1, pp. 6-7; Carol Hatfield Testimony; Letter from Ms. Hatfield (submitted to OAH on June 30, 2022).

According to Ms. Hatfield, her manager explained that she was incurring too much overtime. Moving forward, she would only be allowed up to ½ and hour of overtime per day. It was explained that if Ms. Hatfield performed above that, she would not be paid for it. Ms. Hatfield described being hurt, appalled, frustrated, and angered by the conversation. Before things could escalate into an argument, she expressed “this is bull crap and I need out of here.” She then says she “walked away.”² After she walked away, however, she did not simply take a break and return in a few minutes. Instead, she completely left the restaurant and returned home.³

Ms. Hatfield testified that her intent in walking away was not to leave her employment or quit. Instead, she loved her job. She was simply unhappy because of how hard she had been working for her employer and she was hurt and angered by what her manager said. Rather than quitting, she explained that in walking away, she was simply trying to cool-off before things escalated. She also explained that when this occurred, there was nobody in the restaurant and no orders were up. As such, she did not leave her manager in a “situation.”⁴

Finally, she testified that she called her manager within an hour of walking out of the restaurant and left her a voicemail. In the voicemail, she informed her manager that she was sorry and that she would see her the following morning. Her manager texted back and said that Ms. Hatfield needed to return her keys and shirt and that Ms. Hatfield and Vitus would be going their separate ways.⁵

Mr. Lopez testified that although he was not the human resource’s manager for Vitus at the time this occurred, he had reviewed the file notes. Based on that information he confirmed that there was a confrontation between Ms. Hatfield and the manager on April 20, 2022, and that Ms. Hatfield walked out during the confrontation. The only disagreement that Vitus has is regarding what was said when Ms. Hatfield walked out. Based on information contained in the file, it indicates that Ms. Hatfield said, “fine, do it yourself. I quit.”⁶ He did not have any other issues or discrepancies in what occurred or what Ms. Hatfield testified.⁷

On May 24, 2022, Benefit Payment Control, Unemployment Insurance Investigations, from within the Alaska Department of Labor and Workforce Development (Division), issued a notice of non-monetary determination. It determined that Ms. Hatfield walked off her job, mid-shift, after getting into an argument with her manager. As such, it concluded that she voluntarily quit her employment without good cause and denied her UI benefits.⁸ She timely appealed that determination.⁹

EXCERPTS OF RELEVANT PROVISIONS OF LAW

² Carol Hatfield Testimony.

³ Ex. 1, pp. 6-7; Carol Hatfield Testimony; Letter from Ms. Hatfield (submitted to OAH on June 30, 2022).

⁴ Carol Hatfield Testimony.

⁵ Carol Hatfield Testimony.

⁶ Ray Lopez Testimony.

⁷ Ray Lopez Testimony.

⁸ Ex. 1, pp. 1-4.

⁹ Ex. 1, pp. 1.

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;
 - (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. Hatfield had good cause for voluntarily leaving her position with the Vitus Marine. 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.¹⁰

In this instance, that burden has not been satisfied.

Here, Ms. Hatfield contends that she did not voluntarily leave her position at all. Instead, she contends that her manager was unhappy with her regarding an incident that had occurred weeks earlier, and that the overtime issue was simply a pretext.¹¹ It is recognized that there is a factual dispute regarding precisely what was said when Ms. Hatfield walked away from her job on April 20, 2022.

Under the version of what was said as offered by Vitus Marine, there is no dispute that Ms. Hatfield quit her position. But, even construing the event in a light most favorable to Ms. Hatfield, by completely walking off the job during the noon hour and exclaiming “this is bull crap and I need out of here,” and not even attempting to follow-up for at least an hour, it was reasonable for Ms. Hatfield’s manager to conclude that she

¹⁰ *Missall*, Comm'r Dec. 8924740, April 17, 1990.

¹¹ Carol Hatfield Testimony.

voluntarily quit her position.

Once it is determined that by her actions, Ms. Hatfield voluntarily quit, it is then necessary to determine whether any of the factors in 8 AAC 85.095(c) can be construed as creating “good cause” under the circumstances? Here, none of those factors arguably apply.


It might be claimed that it was reasonable for Ms. Hatfield to have reacted in the manner she did, given the circumstances. However, in this instance, Ms. Hatfield had a variety of options available to her besides leaving her job after her shift had begun. She could have asked her manager if they could follow-up on the conversation after her shift ended. She could have addressed the overtime issue with Vitus Marine’s human resources manager or with her manager’s supervisor. She could have written a letter or an email in response to what she had been told by her manager. She could have done any number of things *besides* getting angry and walking off the job during her shift. Under the circumstances, it was reasonable for her manager to have construed her as having voluntarily quit and none of the factors the Division is required to consider as establishing good cause as set forth in 8 AAC 85.095(c) are deemed to apply.

As such, Ms. Hatfield failed to exhaust all reasonable alternatives to leaving her employment with Vitus Marine. As a result, good cause for her leaving does not exist and her benefits were properly denied.

DECISION

The Division’s May 24, 2022, notice of non-monetary determination is **AFFIRMED**.

DATED August 16, 2022.



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 August 16, 2022, this document was sent to: Carol Hatfield (by mail); Vitus Marine (by mail); and a courtesy copy to the DETS UI Appeals Team and DETS UI Technical Team (by email).

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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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