



## APPEAL TRIBUNAL DECISION

**Docket number:** 23 0542    **Hearing date:** September 28, 2023

**CLAIMANT:**

DIJON MILLER  
[REDACTED]

**EMPLOYER:**

AMERICAN FAST FREIGHT INC  
[REDACTED]

**CLAIMANT APPEARANCES:**

Dijon Miller

**EMPLOYER APPEARANCES:**

None

### CASE HISTORY

The claimant timely appealed a July 14, 2023 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 on December 23, 2022. He last worked on June 12, 2023. At that time, he worked full-time as a commercial driver.

On March 15, 2023, the claimant learned that his subsidized rent was going to be raised because his rent was based on his income. The claimant told his supervisor of his financial difficulty and requested a raise in pay. The employer advised the claimant a raise was not possible, but he was offered additional hours of work.

On June 1, 2023, the claimant learned his rent was being raised again. On June 12, 2023, the claimant decided to leave the the work until his rent was dropped back down to a reasonable amount, and then he would return to work. When he reported to work on June 12, 2023, the claimant was given instructions to obtain a drug screening test. The claimant recalled that it was repeated pre-hire drug screening test, as the results of his initial pre-hire screening test had been misplaced. The claimant decided not to report for the drug screening test, since he had already decided to quit. At the end of the day, the claimant sent a text message to his supervisor, stating that he was quitting to "handle his housing

situation.” The claimant denied that his decision to quit was related to the request to report for a drug screening test.

### **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**

Alaska Statute 23.20.379 requires the Division to examine the reason an unemployment insurance benefit claimant has become unemployed and determine if penalties spelled out in the statute should be applied. The Division determined the claimant in this case voluntarily 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 in this matter did not leave work for one of the allowable reasons. 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 his health, safety or morals, or that he 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.*

The claimant in this case voluntarily quit work because his rent was raised and he decided that being unemployed for a period would be favorable because his reduced income would cause his rent to drop. Manipulating a rental assistance program by quitting suitable work for the sole purpose of getting additional rental assistance is not a compelling reason to leave work.

The Tribunal concludes the claimant voluntarily quit suitable work without good cause. The penalties of AS 23.20.379 are appropriate in this case.

### **DECISION**

The determination issued on July 14, 2023 is **AFFIRMED**. Benefits remain **DENIED** for the weeks ending June 17, 2023 through July 22, 2023. 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 October 3, 2023.



Rhonda Bunes, Appeals Officer