



## APPEAL TRIBUNAL DECISION

**Docket number:** 23 0211    **Hearing date:** April 11, 2023

### CLAIMANT:

CYNTHIA HUARD  
[REDACTED]  
[REDACTED]

### EMPLOYER:

MAKAR EYECARE LLC  
[REDACTED]  
[REDACTED]

### CLAIMANT APPEARANCES:

Cynthis Huard

### EMPLOYER APPEARANCES:

Shannon Garman  
Carly Bernard

## CASE HISTORY

The claimant timely appealed a March 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 February 16, 2021. She last worked on February 17, 2023. At that time, she worked full-time as a billing specialist.

On her last day of work, the claimant had a noon deadline to get statements finished. The claimant was told by her supervisor, the billing manager, not to answer her phone and to work only on completing the statements. The claimant's phone rang and she recognized the number of a patient, so she answered. The patient had received notice that his insurance had paid the employer and he wanted a refund for the amount he had already paid. The claimant checked and could see that the insurer had paid, but the payment was not yet posted. The claimant went and asked the billing manager if she could post the payment so the patient's refund would process right away. The billing manager said no, and again directed the claimant to work on statements only and questioned why the claimant had answered the phone after being told not to. The claimant believed her supervisor was yelling and screaming at her. The supervisor denied yelling, although she recalled that her voice may have been raised because she was frustrated the claimant had not followed her instruction. The supervisor was

aware that patients were frequently right outside the office door and held that she would never yell or scream in the billing office at any time.

The claimant felt symptoms of a panic attack, but she returned to her desk and calmed herself and called the patient back to tell him that his refund would not be processed immediately and that she would call him at a later time. The claimant's supervisor observed that the claimant was on the phone, and when she hung up, the supervisor asked the claimant what part of the previous instructions she had not understood, again with a raised voice.

The claimant decided that she could not tolerate the way her supervisor talked to her. The claimant wrote that she was quitting on a piece of paper and placed it on her supervisor's desk. She then packed her personal belongings and left. The claimant did not bring her concerns about the interaction to the employer before resigning. The clinic's manager was out of the office, but the claimant was aware she could contact the manager by phone, and that she could contact another operations manager or the clinic owners. The clinic manager had helped the claimant resolve issues in the past. The claimant and her supervisor had a personal friendship outside the office and the claimant did not want to cause problems. The claimant decided she needed to resign and leave immediately. The clinic manager later offered the claimant another position outside the billing office, but the claimant refused because she believed her supervisor would still have influence even in another position and it would continue to be stressful.

The claimant provided a letter from her doctor written after her resignation which holds that the claimant has been diagnosed with an anxiety disorder.

### **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

When a claimant establishes a claim for unemployment benefits, the Division is required to examine the reason the claimant became unemployed and determine if the penalties of Alaska Statute 23.20.379 are appropriate. If a claimant has voluntarily quit suitable work, the Division must determine if the claimant had good cause to leave the work.

Regulation 8 AAC 85.095(c) provides seven reasons that the Department will consider when determining good cause for voluntarily leaving work, including leaving due to medical conditions that prevent the claimant from performing the duties required by the work and leaving due to working conditions. In both cases, the regulation holds that the claimant must show they had no reasonable alternative to leaving the work in order to establish good cause.

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 quit work after a negative interaction with her supervisor which led to the claimant having a panic attack. The claimant did not bring the problem to the employer's attention before quitting and she provided no good reason for her failure to do so, as the manager had helped her resolve issues in the past and the claimant knew she could call the manager. The claimant's medical condition did not give her a compelling reason to quit work because she did not request the employer accommodate her medical condition. The Tribunal finds the claimant failed to pursue the reasonable alternative of bringing the issues to the attention of someone above the level of her supervisor before quitting the job.

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

## DECISION

The determination issued on March 14, 2023 is **AFFIRMED**. Benefits are **DENIED** for the weeks ending February 25, 2023 through April 1, 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 April 13, 2023.

A solid black rectangular box used to redact the signature of the Appeals Officer.

Rhonda Bunes, Appeals Officer