



APPEAL TRIBUNAL DECISION

Docket number: 24 0173 **Hearing date:** March 22, 2024

CLAIMANT:

ALLYSON ARMBUSTER
[REDACTED]

EMPLOYER:

KETCHIKAN INDIAN CORPORATION
[REDACTED]

CLAIMANT APPEARANCES:

Allyson Armbuster

EMPLOYER APPEARANCES:

Chelsea Knutsen
Danielle Marcano

CASE HISTORY

The claimant timely appealed a February 15, 2024, determination that 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 October 24, 2023. She last worked on January 25, 2024. At that time, she worked full-time as a dental assistant. On January 22, 2024, the claimant submitted a notice of resignation indicating her last day of work would be February 10, 2024. The claimant told the employer she was quitting for medical reasons. However, she quit because she felt this was a hostile working environment.

She believed her co-workers avoided her, and that one of the doctors had a hostile and derogatory tone when she spoke to the claimant. The claimant also felt she received inadequate training for the position and had difficulty finding others to help her.

The claimant heard a rumor that a coworker believed the claimant filed a complaint about her with the human resources office. The claimant approached the coworker to explain the reason for her visit to the HR office. This led to a verbal altercation between the claimant and the other employee. Both employees were yelling at each other in front of patients. Both employees received written warnings and were sent home for the rest of the day.

The claimant returned to work the following day and requested a transfer, but she was told she was not eligible to transfer because she had already submitted her

notice of resignation. Later that day, the claimant was talking to other employees about her frustration when a coworker told the claimant to stop complaining. The claimant felt the coworker's tone of voice was aggressive and frightening. The claimant amended her resignation to make January 25, 2024, her last day because she felt harassed by her co-workers.

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 has the burden of establishing good cause for voluntarily leaving work. The basic definition of good cause requires the existence of circumstances so compelling in nature as to leave the claimant no reasonable alternative but to leave employment. The definition contains two elements. The reason for leaving must be compelling, and the worker must exhaust all reasonable alternatives before leaving. Luke, Comm'r Dec., 00 2296, March 12, 2001.

An employee must objectively establish "a pattern of ongoing and persistent harassment severe enough to alter the conditions of employment" to succeed in a hostile work environment claim. Draper v. Coeur Rochester, Inc., 147 F.3d 1104, 1108 (9th Cir. 1998). The Department's presumption in benefits denial appeals is that the employee left without good cause. It is the claimant's obligation to overcome this presumption... Keywehak, 4BE-03-0205CI, April 21, 2004.

This "demanding" standard requires "extreme" conduct "rather than merely rude or unpleasant" conduct. . . We look to the totality of the circumstances to consider whether the plaintiff has established "that discriminatory intimidation, ridicule, and insult permeated the workplace." The district court concluded that Elderton's conduct did not create a hostile work environment. . ." Rester v. Stephens Media, LLC; 739 F 3d. 1127; No. 12-3934, (8th Cir. 2014).

It is not abnormal for a certain level of conflict within an office or work group. Not everyone within a work group will always get along with other employees or even management. The claimant has described circumstances that may establish the work environment was uncomfortable or outside of her expectations. However, there was no evidence to establish a pattern of ongoing and persistent harassment or hostility severe enough to alter the conditions of the employment and giving the claimant no reasonable option but to quit at that time.

DECISION

The determination issued on February 15, 2024, is **AFFIRMED**. Benefits remain **DENIED** for the weeks ending February 3, 2024, through March 9, 2024. The three weeks are 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 April 4, 2024.



Kimberly Jackson-Matta, Appeals Officer