



## APPEAL TRIBUNAL DECISION

**Docket number:** 24 0894      **Hearing date:** January 21, 2025

### CLAIMANT:

LARRY RYAN JR  
211 7TH ST E APT 315  
SAINT PAUL, MN 55101-2387

### EMPLOYER:

PEOPLE READY  
2402 W CONGRESS ST  
LAFAYETTE, LA 70506-5549

### CLAIMANT APPEARANCES:

Larry Ryan Jr.

### EMPLOYER APPEARANCES:

None

## CASE HISTORY

The claimant timely appealed a December 13, 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 or was discharged for misconduct connected with the work.

## FINDINGS OF FACT

The claimant re-opened an existing benefit claim year effective November 17, 2024.

At that time, the claimant had last worked a temporary job assignment for Southern Glaziers Wine and Spirits where he was placed for work by People Ready.

The claimant was scheduled to work for that employer from 2:00 pm November 20, 2024 to 6:00 am on November 21, 2024. The claimant let the employer know he had a court appointment that day and he would be late for work. The claimant started his shift at 6:00 pm. At midnight, the claimant asked the shift lead if he could leave early. The claimant had been up all day for his court appointment, so he had not slept. The shift lead gave the claimant permission to clock out and leave at midnight.

The claimant went to work at his normal scheduled time the next day, and he was told he was required to bring a medical note for leaving early the previous night or he was not permitted to return to work. The claimant had planned to relocate within a few days anyway, so he did not attempt to get a medical note.

The claimant held that he did not have a separation from employment because he maintained an employment relationship with People Ready and they had already

dispatched him for temporary work in his new location as of the date of this hearing.

### **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....
  - (2) was discharged for misconduct connected with the insured worker's last work.

#### **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).
- (d) "Misconduct connected with the insured worker's work" as used in AS 23.20.379(a)(2) means
  - (1) a claimant's conduct on the job, if the conduct shows a willful and wanton disregard of the employer's interest, as a claimant might show, for example, through gross or repeated negligence, willful violation of reasonable work rules, or deliberate violation or disregard of standards of behavior that the employer has the right to expect of an employee; willful and wanton disregard of the employer's interest does not arise solely from inefficiency, unsatisfactory performance as the result of inability or incapacity, inadvertence, ordinary negligence in isolated instances, or good faith errors in judgment or discretion....

**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 first matter before the Tribunal is whether a separation from employment exists. The claimant argued that he was still employed and had returned to work for the employer in new location. 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 claimant in this case re-opened a claim for benefits effective November 17, 2024. The Division was required to examine the reason the claimant became unemployed in that week. The Tribunal finds the claimant had a separation from employment and the Tribunal will consider whether penalties are appropriate based on that separation.

The claimant was discharged because he left his shift early with permission from his shift lead.

*The meaning of the term misconduct is limited to conduct evincing such willful disregard of an employer's interests as is found in deliberate violations or disregard of standards of behavior which the employer has a right to expect of his employee, or in carelessness or negligence of such degree or recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed "misconduct" within the meaning of the statute. Boynton Cab Co. v. Neubeck, 237 Wis. 249, 296 N.W. 636 (1041) from Lynch, Com. Rev. No. 82H-UI-051, March 31, 1982.*

The employer did not appear at the hearing. The claimant provided credible sworn testimony that he had a good reason to leave his shift early and he had permission from his shift. The Tribunal concludes the claimant in this case was discharged for reasons other than misconduct. The penalties of AS 23.20.379 are not appropriate.

### **DECISION**

The determination issued on December 13, 2024 is **REVERSED**. Benefits are **ALLOWED** for the weeks ending November 30, 2024 through January 4, 2025, if otherwise eligible. The three weeks are restored to the claimant's maximum benefits. The determination will not interfere with the claimant's eligibility 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 January 21, 2025.



Rhonda Bunnell, Appeals Officer