



## APPEAL TRIBUNAL DECISION

**Docket number:** 25 0210    **Hearing date:** April 14, 2025

**CLAIMANT:**

ALIDA DUNNING  
[REDACTED]

**EMPLOYER:**

SPENARD BUILDERS SUPPLY INC  
[REDACTED]

**CLAIMANT APPEARANCES:**

Alida Dunning

**EMPLOYER APPEARANCES:**

None

### CASE HISTORY

The claimant timely appealed a February 14, 2025, 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 working for the employer on February 17, 2024. She last worked on January 28, 2025. At that time, she worked full-time as an inventory control specialist.

The claimant requested a leave of absence from February 9, 2025 to March 10, 2025 to travel to her mother's residence to assist her mother in arranging care and legal matters. The claimant submitted the leave request to be covered by the Family Medical Leave Act (FLMA). The claimant received notice in January that her leave was not covered by the FLMA program because the claimant had not yet been employer for a full year. The claimant was advised by a representative of a third party agency that handles the employer's FMLA requests that the employer could approve her leave separate from the FLMA program.

On January 27, 2025, the claimant was advised that she was required to meet with the human resources office on January 30, 2025 regarding her leave approval. The claimant was concerned that she was going to be discharged if she took the leave. The claimant was scheduled to leave town on February 9, 2025 and if she lost her job, she would have to pack her belongings and transport them

to Homer before her trip, as she could not afford to pay rent while she was gone if she did not have work to return to.

The claimant was concerned that her supervisor would not support her leave request because the supervisor had first told the claimant that the employer could not approve her leave if FLMA was denied, the supervisor had asked the claimant to move her trip up to February instead of March for the supervisor's convenience which resulted in the FMLA denial. The claimant worked a couple hours on January 28, 2025 and decided to leave because the employer would not tell her if she was going to lose her job. The claimant decided it would be best to quit work and get her belongings moved before her trip, so she let the employer know she was quitting effective immediately.

### **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 in this case voluntarily quit suitable work because she feared that she would be fired if her leave was not approved at the last minute, and she would not have time to move out of her residence before her travel.

*Leaving in anticipation of a discharge is a voluntary leaving, not a discharge. This is true no matter how well founded the worker's belief was that the employer would discharge the worker if the worker did not leave. West, Com. Dec. 9321473, June 15, 1993; [W]e hold that quitting a job in anticipation of discharge is without good cause. Spence, Com. Dec. 9324931, February 9, 1994.*

The claimant held that she had good cause to leave the work because she was leaving work to care for her mother, who has a disability or illness, but the Tribunal does not agree. The claimant was only required to provide care for a

limited period which could be covered by requesting leave, as the claimant did here. However, the claimant did not wait to hear whether the leave was approved, so she did not exhaust that reasonable alternative before quitting work.

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 has not established that she had good cause to voluntarily quit suitable work at the time she did. The penalties of AS 23.20.379 are appropriate in this case.

### **DECISION**

The determination issued on February 14, 2025 is **AFFIRMED**. Benefits remain **DENIED** for the weeks ending February 1, 2025 through March 8, 2025. 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 April 17, 2025.



Rhonda Bunnell, Appeals Officer