



APPEAL TRIBUNAL DECISION

Docket number: 25 0316 **Hearing date:** May 28, 2025

CLAIMANT:

VALERIE KINCAID
[REDACTED]

EMPLOYER:

ACCESS AK INC
[REDACTED]

CLAIMANT APPEARANCES:

Valerie Kincaid

EMPLOYER APPEARANCES:

None

CASE HISTORY

The claimant timely appealed an April 9, 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 May 10, 2022. She last worked on October 29, 2024. At that time, she worked part-time as a personal care attendant.

The claimant provided in-home care for the employer's client five days a week, four hours per day. The client's wife complained and yelled at the claimant the entire time she was in the home, every day. The claimant's previous client had also been very stressful to care for. On her last day of work, the claimant experienced severe dizziness and vomiting. The claimant was diagnosed with vertigo in the hospital. The claimant's doctor told her she should find other work with less stress because the vertigo would get worse each time she was stressed.

The claimant had planned to take temporary leave of absence due to her husband's health care needs, but she had not intended to leave the work permanently for that reason. The claimant decided it would not be reasonable to take leave or ask for another client because her doctor advised her to leave that work. The claimant called the employer on October 30, 2024 and advised them she would not return to work.

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, including 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. The claimant was advised by her doctor that she should leave the work because her vertigo would get worse if she continued to be stressed by clients. Trying another client or taking a break and returning to the work were not reasonable alternatives for the claimant because her doctor advised her to seek less stressful work for her health.

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 Tribunal concludes the claimant in this case had a compelling reason to leave work and there were no alternatives she could have reasonably pursued before leaving the work.

DECISION

The determination issued on April 9, 2025 is **REVERSED**. Benefits are **ALLOWED** for the weeks ending November 2, 2024 through December 7, 2024, 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 May 28, 2025.

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

Rhonda Bunes, Appeals Officer