

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON
REFERRAL BY THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES**

In the Matter of)	
)	OAH No. 13-0120-SNA
L T)	Agency No.
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DECISION

I. Introduction

L T is an applicant for recertification to the Supplemental Nutrition Assistance Program, commonly known as Food Stamps. The Division of Public Assistance found her ineligible on the basis that a job quit penalty should be applied. Ms. T requested a hearing.

Ms. T received a hearing on February 15, 2013. She appeared by telephone. The division was represented by Ms. Terri Gagne, who also appeared by telephone. Exhibits 1 through 11 were admitted without objection, except that Exhibit 2.17p was admitted over objection.

As discussed below, the division's imposition of a job-quit penalty was appropriate and the application was properly denied.

II. Facts

On December 31, 2012, L T applied for recertification to the Food Stamp program.¹ She disclosed recent employment with the Northwest division of No Name Services, Inc. The Division of Public Assistance subsequently denied her application on the basis that she had quit the No Name job without good cause. The Division found that a 90-day disqualification period should apply.²

No Name had hired Ms. T as an office assistant at its Anchorage branch business office on December 5, 2012.³ She began work on December 11 at a pay rate of \$11.00 per hour.⁴ On December 18, she reported an on-the-job injury, and she was granted a leave of absence effective December 19.⁵ At the hearing, she described the injury as a twisted back, which she says occurred as she was opening the office in the morning and was startled by

¹ Ex. 2.2.
² Ex. 2.16.
³ Ex. 2.17d.
⁴ Ex. 2.8.
⁵ Ex. 2.17n.

“something inside” that she took to be an intruder on the premises. Ms. T filed a workers compensation claim.⁶

On January 10, 2013, the physician’s assistant treating Ms. T apparently released her to unrestricted work, with the proviso that she should receive time off for physical therapy appointments two to three times per week for six weeks.⁷ On January 13, 2013, Ms. T left a message with No Name resigning her job. The company’s termination report form indicates that the message said she “feels uncomfortable working for No Name (after she filed WC claim)” and that she was “dissatisfied w job”.⁸ She was marked as eligible for rehire.⁹

There is no contemporaneous record of any other reasons for Ms. T’s resignation. At the hearing, however, Ms. T related many other reasons. She said that she believes she heard rats rustling around in the ceiling of the building, and thinks she saw a bat. She said that many of the no name employees were Spanish-speaking, and she was concerned they might be illegal immigrants who could expose her to tuberculosis or “blood-borne pathogens.” (She noted that she is an asthma sufferer, which she feels could make her more vulnerable to such diseases or to dander from the rats or bats.) She said that she was given a very old and slow computer that would not upload a program she needed, as well as a chair that hyperextended itself like a rocking chair. She said that the lighting was broken and it was frightening and dangerous to open the office in the morning (although she indicated that the lights were repaired when she mentioned this concern). She said that the neighbor was “not very neighborly.” She said that walking from the bus stop to the premises was dangerous due to bad winter footing and traffic. She said that commuting to and from physical therapy from work would have required a lot of time on the bus.

Other than Ms. T’s testimony, there is no evidence to corroborate any of the worksite problems she describes. Apart from the lighting issue and related security concerns, moreover, there is no indication that she engaged with her employer to address what she perceived as substandard or difficult conditions or to work out the logistics of attending physical therapy.

⁶ T testimony. The claim is not in evidence.

⁷ Ex. 2.17b, c; T testimony.

⁸ Ex. 2.17o, p.

⁹ Ex. 2.17p.

At the time she left her job in mid-January, Ms. T does not seem to have relied on the concerns she now describes as her reason for leaving. The concerns are absent from the record of her message to No Name, as well as from the record of her discussion of the resignation with her Food Stamps caseworker.¹⁰ Two weeks before that, the only reason for not working at No Name that she gave on her Food Stamps application was that she had an injury and “cannot work.”¹¹

III. Discussion

Food Stamps is a federal program administered by the state.¹² The Food Stamp program has a work requirement. A person receiving or applying for Food Stamp benefits is required to be employed, looking for employment, or training for employment, unless the person is exempt from the work requirement.¹³ As part of the work requirement, a person may “not voluntarily and without good cause quit a job of 30 or more hours a week.”¹⁴ A person who voluntarily and without good cause quits a job of 30 or more hours a week (or reduces work effort below 30 hours a week) during the 60 days preceding a Food Stamp application “or at any time thereafter” is subject to a penalty that makes him or her not eligible to receive Food Stamp benefits for a specified period of time.¹⁵ That ineligibility period varies depending on whether the applicant has had prior penalties imposed.¹⁶ The length of the appropriate disqualification for Ms. T has not been made an issue in this case.

In this case it is undisputed that Ms. T voluntarily quit a job of more than 30 hours per week, and that she did so during the relevant period (in her case, it was in the “time thereafter” between when she filed her application and when it was acted on). The only disputed question is whether she acted with good cause in quitting her job.

All facts and circumstances may be considered in evaluating good cause—there is no set definition.¹⁷ Among the circumstances that can be good cause are unreasonable work demands

¹⁰ Ex. 2.17, 2.17, 2.17p.

¹¹ Ex. 2.3.

¹² 7 C.F.R. § 271.4(a).

¹³ 7 C.F.R. § 273.7(a)(1).

¹⁴ 7 C.F.R. § 273.7(a)(1)(vii).

¹⁵ 7 C.F.R. § 273.7(j)(2); 7 C.F.R. § 273.7(j)(3)(ii); *Alaska Food Stamp Manual* §602-1 L.

¹⁶ 7 C.F.R. § 273.7(e)(2); *Alaska Food Stamp Manual* § 602-1I(2)(c).

¹⁷ See 7 C.F.R. § 272.7(i) (“not possible . . . to enumerate each individual situation that should or should not be considered good cause”).

or conditions,¹⁸ illness,¹⁹ or unavailability of transportation.²⁰ As the applicant, Ms. T has the burden of proof to establish her eligibility and thus the burden to establish good cause for quitting her job.²¹

Ms. T's testimony was not sufficiently credible to carry this burden of proof. Her litany of complaints appeared to be a frantic effort to think up as many issues as possible, hoping one would lodge. To the extent that the complaints were genuine and not exaggerated, there was no evidence of a diligent effort to work out job challenges and hold on to this job.

When job conditions are truly unreasonable, an employee may quit without incurring a Food Stamps eligibility penalty. Ms. T did not prove circumstances justifying her resignation from her No Name job, however.

IV. Conclusion

Ms. T quit a full-time job without good cause. Accordingly, it was appropriate to impose a job-quit disqualification period, and the division's determination to do so is upheld. Ms. T's recertification application was properly denied.

Dated this 19th day of February, 2013.

Signed

Christopher Kennedy
Administrative Law Judge

¹⁸ 7 C.F.R. § 273.7(i)(3)(ii); *Alaska Food Stamp Manual* §602-1 M(2).

¹⁹ *Alaska Food Stamp Manual* §602-1 M(1).

²⁰ *Id.*

²¹ This is so even though her application is for recertification rather than initial certification. *See, e.g., Banks v. Block*, 700 F.2d 292, 295, 297 (6th Cir. 1983) ("those seeking recertification for food stamps are treated essentially like first-time applicants"). The burden of proof in this instance is proof by a preponderance of the evidence. *See generally* Case No. 08-FH-533(Alaska Dep't of Health & Soc. Serv., Office of Hearings & Appeals, 2008) (P. Huna-Jines, Hearing Authority) (<http://aws.state.ak.us/officeofadminhearings/Documents/HSS/08-FH-533.pdf>).

An alternative way of viewing this case would be as an action to "impose" a job-quit penalty. In that conceptualization, the agency would have the burden to establish the prerequisite for the penalty—the job quit, which in this case is uncontested—and good cause would be an avoidance or affirmative defense, and the burden of establishing it by credible evidence would again fall on Ms. T. *Cf., e.g., Palicka v. Ruth Fisher School Dist. No. 90 of Maricopa County*, 473 P.2d 807, 811 (Ariz. 1970).

Adoption

The undersigned, by delegation from of the Commissioner of Health and Social Services, adopts this Decision, under the authority of AS 44.64.060(e)(1), as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 5th day of March, 2013.

By: Signed _____
Name: Ree Sailors
Title: Deputy Commissioner, DHSS

[This document has been modified to conform to the technical standards for publication.]