

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

In the Matter of)
)
 N D) OAH No. 17-0842-SNA
) Agency No.
_____)

DECISION

I. Introduction

N D quit his job and applied for food stamps for his household. The Department of Health and Social Services, Division of Public Assistance applied a penalty disqualifying Mr. D from the food stamp program for 30 days for voluntarily quitting a job without good cause. Mr. D appealed, arguing that he had good cause for quitting the job.

Mr. D had a number of reasons for quitting the job. However, none of them constitute good cause for the purposes of the food stamp program. The division’s decision to impose a job quit penalty is upheld.

II. Facts

Mr. D was receiving food stamps. On May 9, 2017, the division received notice from Mr. D that he started working at the No Name Inn on April 28, 2017, in a full-time position for \$17 an hour.¹ This raised his income over the limit for the food stamp program, so the division paid Mr. D’s food stamp benefits for May 2017 and closed his food stamp case.²

Mr. D’s job at the No Name Inn involved maintenance. Mr. D spent ten days working with the outgoing maintenance person, H Q. Based on his observations and what he learned about the experience of Mr. Q and other coworkers at the No Name, “flags went up” for Mr. D about the job.³

On May 15, 2017, Mr. D texted his employer, B T, and informed her that he did not feel the position at the No Name Inn “will be a good fit for me.” Ms. T met with Mr. D, and asked him to remain for 30 days so that she could find a replacement. Mr. D agreed.⁴ Mr. D’s last day working at the No Name Inn was June 15, 2017.⁵

¹ Exhibit 2.1 - 2.2.
² Exhibit 2.
³ Exhibit 5.2 - 5.5, Exhibit 6.
⁴ Exhibit 5.5.
⁵ Exhibit 3.

On June 20, 2017, Mr. D reapplied for food stamps. The division interviewed Mr. D. Mr. D stated that he quit because he did not want to use his own truck for errands for the job.⁶ He also indicated that had he known that taking the job at the No Name Inn would put him over the income limit for Medicaid, he would not have taken the job.⁷ The division's Eligibility Technician then contacted B T, Mr. D's employer at the No Name Inn. Ms. T told the division that Mr. D had quit because he said he could make more money refurbishing bathrooms as a contractor. She also said that the business had a van that he could have used for errands for the job, but that Mr. D wanted to use his own truck.⁸ The division found that Mr. D had quit his job without good cause, and disqualified him from the program through July 31, 2017.⁹

The division notified Mr. D on June 23, 2017 that his application for food stamps was denied because he quit his job without good cause, and that he would be disqualified from the food stamp program until July 31, 2017 according to Alaska Food Stamp Manual section 602-1 F.¹⁰ However, the notice did not include an explanation of the division's specific reasons for imposing the penalty based on the facts of Mr. D's case.

The division sent Mr. D another denial notice on July 17, 2017, this time with an explanation: "You quit your most recent job with No Name Inn, and good cause was not given. Per conversation with previous employer B she stated you quit your job due to stating you could make more money working for yourself refurbishing bathrooms as a contractor. She stated that there is a company van that was access[i]ble to you to be able to use for jobs, and it was not mandatory for you to use your truck, that it was your choice to use your private truck."¹¹ Mr. D responded with a written explanation of his reasons for leaving the job at the No Name Inn.¹²

A telephonic hearing began on August 30, 2017 and continued September 13, 2017. Mr. D represented himself. Sally Dial, a Public Assistance Analyst with the division, represented the division. H Q testified for Mr. D. Eligibility Technician Heather Bailey testified for the division. Mr. D objected to the hearing on August 30, 2017, on the grounds

⁶ Exhibit 3; Testimony of Bailey.

⁷ Testimony of Bailey.

⁸ Exhibit 2.1, Exhibit 3, Testimony of Bailey.

⁹ Exhibit 3, 4.

¹⁰ Exhibit 4.

¹¹ Exhibit 4.1.

¹² Exhibit 5.

that he had not yet received the agency's position statement and exhibits. However, he had his witness Mr. Q prepared to appear on that date, and Ms. Dial had arranged for Heather Bailey to testify on that date, so the hearing went on to take testimony from those witnesses. The hearing was continued on September 13, 2017 to allow Ms. Dial to present the division's case, and give Mr. D the opportunity to respond to the division's position statement and exhibits.

III. Discussion

The division applied the penalty after concluding that Mr. D quit his job without good cause. Mr. D argued that he had good cause for quitting because work demands and conditions rendered continued employment unreasonable, and because employment at the No Name Inn became unsuitable after he accepted the job. Because this case involves a new application for benefits, Mr. D has the burden of proof.¹³

A. Unsuitable employment

The federal regulation and the Alaska Food Stamp Manual provide that good cause for quitting a job exists where "employment becomes unsuitable . . . after the acceptance of such employment."¹⁴ However, employment will be considered suitable unless one of nine specific conditions exist: unreasonable risk to health and safety, the person is physically or mentally unfit to perform the work, the commute time exceeds two hours a day, work hours interfere with the person's religious beliefs, the wage offered is less than minimum wage, the employment requires or will not allow an employee to join a legitimate union, the work is at the site of a strike that has not been enjoined, or the employment offered within the first 30 days of registration is not in the person's major field of experience.¹⁵

Mr. D argued that he concluded that the work at the No Name Inn was unsuitable for him for several reasons, which are discussed more fully below. However, none of the reasons Mr. D offered for quitting his job at the No Name Inn fit within the nine specific recognized categories of unsuitability, therefore the job at the No Name Inn did not become unsuitable after employment under the narrow meaning given the word "unsuitable" in the federal regulation.

¹³ 7 AAC 49.135.

¹⁴ Exhibit 10.1 (Alaska Food Stamp Manual 602-1 M 8); Exhibit 7.18 (7 CFR 273.7(i)(3)(ii)).

¹⁵ Alaska Food Stamp Manual 602-1 N; 7 CFR 273.7(h).

B. Unreasonable work demands or conditions

Federal regulations and the Alaska Food Stamp Manual provide that good cause for quitting a job includes “work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule.”¹⁶ Mr. D that there were several things about working at the No Name Inn that rendered continued employment unreasonable.

1. Mr. D’s truck

When Mr. D reapplied for food stamps in June 2017, he told the eligibility technician that he quit the job at the No Name Inn because he did not want to use his own truck for errands for the job.¹⁷ At the hearing, he testified that “my major concern with the job was the use of my vehicle.” The division contacted Ms. T, who reported that a van was available, and that it was Mr. D’s choice to use his own vehicle.¹⁸ Based on this, the division concluded that Mr. D had quit his job without good cause.¹⁹

At the hearing, Mr. D testified that he brought the need for a maintenance vehicle to Ms. T’s attention. Ms. T told him that her minivan was available for his use on the job. However, Mr. D found this unfeasible, because the job involved hauling bags of trash, and the minivan was an upholstered family vehicle. He explained “that would have ended very quickly if I were to have followed through in putting bags of garbage on her upholstery.” He wrote: “It is not possible to fill this vehicle with half a dozen full, leaking bags of garbage at the end of the workday from various locations requiring trash pick up.”²⁰ Mr. Q, who held Mr. D’s job at the No Name Inn before Mr. D, testified that he was required to use his own vehicle on the job.

Some jobs require an individual to provide their own vehicle. This is not an uncommon condition of employment, and not in itself unreasonable. Mr. D himself cited the example of a high-school age pizza delivery person, and distinguished his situation arguing that he is an experienced laborer, and that Ms. T’s business has enough resources to provide a company maintenance vehicle. Mr. D expressed concern about the potential for liability in case of an accident involving his personal vehicle. He also argued that it was

¹⁶ Exhibit 10 (Alaska Food Stamp Manual 602-1 M 3); Exhibit 7.18 (7 CFR 273.7(i)(3)(ii)).

¹⁷ Exhibit 3.

¹⁸ Exhibit 3.

¹⁹ Exhibit 4, 4.1.

²⁰ Exhibit 5.

unreasonable in his case because he needed the truck for his son and for himself to get to medical appointments, to get groceries, and to do laundry. He argued that it was unreasonable to require him to use his own vehicle without reimbursing him, but admitted that no agreement about reimbursement or a standard mileage rate had ever been put on paper, suggesting that no agreement was ever reached. Finally, he testified that when he was dispatched by the job center to interview at the No Name Inn, he understood that he was applying for a position as a dishwasher, so it may not have been clear when he was hired that the job duties required a vehicle.

None of this rendered continued employment at the No Name Inn unreasonable. At most, Mr. D established that the issue of reimbursement for the use of his vehicle for work errands was unresolved. However, he did not establish that he was required to use his vehicle. He did not establish that the No Name Inn failed to pay him as promised.

2. Other concerns

In addition to his concern about the use of his truck, Mr. D argued that the work demands and conditions of the job were unreasonable because Ms. T did not furnish an adequate workshop, but rather a room cluttered with personal belongings that was shared with employees doing laundry for the inn. Mr. D also described an ever-expanding list of job tasks. He expressed concern about assignments to work on other properties owned by Ms. T besides the No Name Inn.

Mr. D had concerns about his compensation. He testified that perquisites discussed at his interview -- scheduled salary increases, participation in a 401(k) plan, and time off -- were never reduced to writing and did not materialize. However, under questioning from the division, Mr. D admitted that he had been paid his hourly wage on schedule. Furthermore, although Mr. D testified that various perquisites were discussed at the interview, he did not say that Ms. T had agreed to provide these benefits. Mr. D did not argue that Ms. T had failed to pay him any compensation he was owed.

Mr. D was also concerned that other employees had not been properly compensated for their work at the No Name Inn. Mr. D cited the experience of Mr. Q, his predecessor who said he had not received a promised bonus, was seeking reimbursement for use of his cell phone and personal vehicle for job purposes, and received payment of unpaid overtime wages only after an investigation of a wage complaint by the Department of Labor and

Workforce Development.²¹ He also cited the experience of two other employees who he said were offered an hourly wage, but were actually paid per room.²² Mr. D felt that the experience of these other employees constituted good enough reason for him to quit. However, these concerns related to other employees, not to Mr. D himself. Mr. D did not establish that the No Name Inn failed to compensate him properly.

The concerns Mr. D expressed understandably made continued employment at the No Name Inn undesirable to Mr. D. However, they did not render continued employment so unreasonable as to constitute good cause for voluntarily quitting his job for purposes of the food stamp program's job quit penalty. Rather, they tend to support what Mr. D told Ms. T when he announced his intention to leave -- that the job was not a good fit for him.

IV. Conclusion

Mr. D had several reasons for quitting his job at the No Name. However, none of these amounted to work demands or conditions that rendered continued employment unreasonable or unsuitable. Mr. D did not demonstrate that he had good cause to quit the job for purposes of the job quit penalty provision of the food stamp program. The division's decision to impose a 30-day job quit penalty is upheld.

Dated: September 25, 2017.

Signed

Kathryn L. Kurtz
Administrative Law Judge

²¹ Exhibit 5.8, 6, 6.1; Testimony of D.

²² Testimony of D; Exhibit 6.

Adoption

The undersigned, by delegation from 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 10th day of October, 2017.

By: Signed

Name: Kathryn L. Kurtz

Title: Administrative Law Judge

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