Appellate Court No. 324109-III

SUPREME COURT
OF THE STATE OF WASHINGTON

91774-4

JESSICA PEDERSON,

Appellant/Petitioner,

v.

EMPLOYMENT SECURITY DEPARTMENT
OF THE STATE OF WASHINGTON,

Respondent.

PETITION FOR REVIEW

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A. IDENTITY OF PETITIONER

Jessica Pederson requests the Court accept review of the Court of Appeals decision terminating review and designated in Part B of this Petition.

B. COURT OF APPEALS DECISION

Unpublished Opinion filed May 5, 2015, in Court of Appeals Division Three, under Cause No. 32410-9-III. A copy of that decision is included in the Appendix at pages A1 to A11.

C. ISSUES PRESENTED FOR REVIEW

No. 1: Whether Petitioner's "working interview" was "work" in the context of RCW 50.20.050 to disqualify her from receiving unemployment benefits when she did not complete the working interview.

No. 2: Whether Petitioner's "usual hours" and "usual compensation" with Employer were reduced by twenty-five percent or more, thereby not disqualifying Petitioner from receiving unemployment benefits.

D. STATEMENT OF CASE

On May 18, 2013, Petitioner interviewed for a job with employer Employer Fruit/Employer Cherry Company ("Employer") and believed in good faith that she and Employer had reached an understanding that Petitioner had been offered a full-time position of Assistant Coordinator. CP at 17.

When Petitioner arrived at the location of employer on May 18, 2013, for what Petitioner believed would be her first day of employment, she learned that she did not have a job but, rather, had a three day working

interview, and that she might be selected from a field of candidates for eventual permanent employment. CP at 15. Petitioner was also informed that the employee in the position in which Employer was seeking a replacement for was fluent in Spanish. CP at 16. Petitioner did not speak Spanish. Petitioner arrived at the working interview in business professional attire but was informed that the working interview would occur on an assembly line. CP at 19. Petitioner at this time was also informed that she was over-qualified for the position. CP at 18.

These details had not been communicated to Petitioner at the initial interview that occurred prior to this working interview. After Petitioner became aware of these changes in her employment status, Petitioner terminated the working interview and continued to receive unemployment benefits.

On April 27, 2013, the Employment Security Department issued a written Determination Notice denying the Appellant unemployment benefits and assessing an overpayment of $1,678.00. CP at 31-39. The Determination Notice states: "Since you quit your job after the first day of the working interview, you have not established good cause for quitting your job."

Petitioner timely filed an appeal of the notice on May 2, 2013.

On May 30, 2013, the State of Washington Office of Administrative Hearings for the Employment Security Department issued an "Initial Order," setting aside the determination by Employment Security Department to disqualify Appellant from receiving unemployment benefits. Employer petitioned for review of the Initial Order.

The Conclusions of Law of the Administrative Law Judge Deborah A. St. Sing indicated that "employer changed the terms of employment

from full-time permanent to 3-day temporary . . . [and thereby] substantially reduced the hours of employment by more than 25% and the terms of employment . . . and [Petitioner] established good cause under RCW 50.20.050(2)(b)(ii)." CP at 59.

Employer appealed this decision and on June 21, 2013, a Review Judge for the Commissioner's Review Office of the Employment Security Department of the State of Washington issued a decision setting aside the Initial Order. CP at 80. This Decision of Commissioner included the following Additional Conclusions of Law: "While claimant was undoubtedly disappointed when she learned that she did not yet have a permanent position, what she did have was essentially a working interview." CP at 81.

On January 30, 2014, a hearing on the Appeal of the Decision of Commissioner was held in Yakima County Superior Court before the Honorable Judge David Elofson. On March 11, 2014, the Court entered its "Findings of Fact, Conclusions of Law and Order" affirming the Decision of the Commissioner of the Employment Security Department.

On April 16, 2014, a Notice of Appeal was filed in Yakima County Superior Court and received by The Court of Appeals of the State of Washington Division III.

On May 5, 2015, Division Three of the Court of Appeals determined that Petitioner was employed by Employer and voluntarily left her position, affirming the Superior Court decision.

E. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED

1. Petitioner was not employed by Employer

Petitioner reported to work at the location of Employer with the understanding that she had been hired as full-time Assistant Coordinator.

Shortly after she arrived, Petitioner was advised that she had not been hired and had actually been invited to participate in a three day working interview. Later, Petitioner was advised of more changes in the position. The person selected for the position would need to be bilingual in Spanish. Petitioner was not bilingual. The job would also be performed on the assembly line floor.

Petitioner did not return for the remaining two days of the working interview based upon the misrepresentation of the nature of the position as actual work, as well as the statements to her that the position called for a bilingual candidate and that she was overqualified for the job. Petitioner had never agreed to participate in any working interview.

Interview is defined by Merriam Webster on-line as:

> "a formal consultation usually to evaluate qualifications (as of a prospective student or employee)"

http://www.merriam-webster.com/dictionary/interview (1).

CP at 5. Interview is also defined as:

> A formal meeting in which one or more persons question, consult, or evaluate another person.[1]

An interview is *not* a full-time position. As Mark Twain wrote, "The difference between the right word and the almost right word is the difference between lightning and a lightning bug."

There is an appreciable difference between the word "work" as it is used in the context of RCW 50.20.050(2)(b) and the phrase "working interview," as it is used in the Determination Notice dated April 27, 2013, from the Employment Security Department ("ESD"), and again used in the Decision of the Commissioner of the ESD, dated June 21, 2013. There is no

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[1] Dictionary.com

apparent statutory definition or provision addressing the phrase "working interview" in the context of Title 50 of the Revised Code of Washington. For that matter, the word "interview" has no statutory definition either.

A "working interview," whether paid or unpaid, remains simply an *interview*. At the interview stage of an employer-employee relationship, prospective employer and prospective employee are both aware that they *both* have the option to initiate a separation at any time at the interview stage. If either one does initiate such a separation, it logically follows that no employment relationship ever occurred. Prospective employer should not be expected to pay and prospective employee should not be expected to work until they have mutually established a clear agreement of employment. Only then may the position be seen as "work" in the context of RCW 50.20.050, and from which ESD might deny benefits.

Petitioner respectfully submits that Employer misled her as to the nature of the job and solicited Petitioner to participate in a working interview without disclosing the true nature of the relationship between Petitioner and Employer. The working interview was not the job that she had applied for, or the job she thought she had secured. In the alternative, if the working interview is considered "work" under Title 50, Petitioner left the position voluntarily with good cause, as discussed in Section 2 below.

In its Opinion, the Court of Appeals indicated that Petitioner was employed under the definition of the Act. RCW 50.04.010 states:

> "Employment," subject only to the other provisions of this title, means personal service, of whatever nature, unlimited by the relationship of master and servant as known to the common law or any other legal relationship, including service in interstate commerce, performed for wages or under any contract calling for the performance of personal services, written or oral, express or implied.

Petitioner had not secured a full-time position. Work is defined as "a job or activity that you do **regularly** especially in order to earn money". Emphasis added. Petitioner had a "working interview". This was not work that Petitioner would be doing regularly. She would be interviewing for three days.

Employer's practice of utilizing working interviews without prior disclosure of this arrangement to prospective employees naturally leads to benefits issues for those receiving unemployment benefits, as Petitioner was. Petitioner should not have had to remain at a working interview for two more days because she had never agreed to participate in a working interview. Petitioner should not have been denied benefits as a result of this exchange with Employer as Employer clearly mislead Petitioner.

2. Employer changed the terms of employment

If a worker "voluntarily quits" her job, therefore, she will be denied benefits unless he has "good cause" for quitting. *Safeco Ins. Companies v. Meyering*, 102 Wn.2d 385, 385,389, 687 P.2d 195 (1984). Petitioner's good faith understanding was that she had been hired for the position of Assistant Coordinator. However, when Petitioner reported for work on the first day of work, she was advised that her "job" was actually a three day "working" interview. The immediate impact of this latent disclosure was that Petitioner's expectation of a 40 hour work week was reduced to a three day working interview. Three 8 hour days is 24 total hours worked. 16 fewer hours per week was a greater than 25% reduction in hours from a full-time position.

Petitioner's working interview was apparently called for, at most, three days of work at a pay rate of minimum wage for Washington State. The reduction in hours necessarily resulted then in a reduction in pay commensurate with the reduction in hours. Clearly, Petitioner established

two of the 11 good faith reasons to leave work and should not have been disqualified to receive benefits under RCW 50.20.050(2)(b)(v) and (vi). RCW 50.20.050(2)(a)(v) also refers to *usual* hours. Petitioner had not previously established any *usual* hours with Employer.

This case can be distinguished from *Darkenwald v. Employment*, 182 Wn. App. 157 (2014), as the action of Employer in this case caused a *reduction* in hours and pay rather than an *increase* in potential compensation. In addition, Petitioner had never previously worked even one day for Employer, whereas the Appellant in *Darkenwald* had worked for her employer for years.

The Court should uphold the decision of the Administrative Law Judge, who found that Employer "changed the terms of employment from full-time permanent to three day temporary, thereby reducing the hours of employment by more than 25 percent. Clerk's Papers (CP) at 11. Petitioner did not voluntarily quit her "job." She never had a job to quit. But if the working interview was in fact "work," the reduction in pay and hours falls under the 11 good faith reasons to quit.

Petitioner had not yet been hired to fill the position. Employer misrepresented the circumstances to Petitioner. Employer indicated to Petitioner that she had not secured the position. She was there for a three day working "interview". An interview is clearly not the same as having a full-time position and this three day interview resulted in a marked reduction in hours.

3. The Employment was Unsuitable to Petitioner

The legislature specifically sets forth that RCW 50.20.050 is to be interpreted liberally. *Gaines v. State, Dept. of Employment Sec.*, 140 Wn. App. at 797 (emphasis added).

"The legislature further finds that the system is falling short of [the Act's] goals by failing to recognize the importance of applying liberal construction for the purpose of reducing involuntary unemployment, and the suffering caused by it, to the minimum, and by failing to provide equitable benefits to unemployed workers." Id. at 797 citing ENGROSSED H.B. 2255, 59th Leg., Reg. Sess., at 377 (Wash. 2005).

"The legislature also added to the preamble of the Act that 'this title shall be liberally construed for the purpose of reducing involuntary unemployment and the suffering caused thereby to the minimum." *Id.*

"Unemployment compensation statutes were enacted for the purpose of relieving the harsh economic, social and personal consequences resulting from unemployment. If these statutes are to accomplish their purpose, they must be given a liberal interpretation." *Id.*at 797-98 citing A NORMAN J. SINGER, SUTHERLAND STATUTORY CONSTRUCTION § 74.7, at 921-23 (6th ed. 2003) (footnotes omitted) (citing cases from 35 states, including *Employees of Pac. Maritime Ass'n v. Hutt*, 88 Wn.2d 426, 562 P.2d 1264 (1977)).

In *Gaines*, the Court reversed the Commissioner's decision and reinstated the decision of the Administrative Law Judge. The Court determined that the employment was unsuitable for Gaines and that suitability of the employment should be evaluated under a more liberal construction of the Act.

In the case at bar, the Court of Appeals Div. III determined that Petitioner was employed by Employer under the definition in RCW 50.04.010. However, when determining if work obtained is bona fide work under RCW 50.20.050, the following factors are considered: (1) the duration of the work; (2) the extent of direction and control by the employer over the work; and (3) the level of skill required for the work in

light of the individual's training and experience. Using these criteria Petitioner was not employed by Employer. Instead, Petitioner was participating, albeit briefly, in what Employer was calling a "working interview".

Finally, Petitioner was not required to accept any job offer made to her. Page 17 of the Employment Security Handbook for Unemployed Workers states:

> "Do I have to accept any job offer? You must accept an offer of *suitable work* based on your skills, abilities and ***labor market***. If there are limited jobs in your occupation or geographical area, you may have to expand your search. Consider looking for a job in a different field or location."

Suitable work is defined in the Appendix Page 33 of the Employment Security Handbook for Unemployed Workers as "employment in an occupation in line with your prior training, work experience and education unless your regular work does not exist in your labor market. If you do not have the education or training for a job, suitable work is a job you have the physical and mental ability to perform."

When the terms of her employment, as Petitioner reasonably understood them, were changed by Employer to drastically reduce Petitioner's hours, pay and to require Petitioner to be bilingual in Spanish, the position was no longer suitable work for Petitioner.

F. CONCLUSION

Petitioner should not be disqualified from receiving benefits following the one day working interview. Petitioner was not employed by Employer, the actions of employer on the first day of work reduced Petitioner's compensation and hours by more than 25%, and the job was not reasonably suitable to Petitioner.

Petitioner should not have been disqualified from receive benefits under RCW 50.20.050(2)(b). The decision in the Court of Appeals should be reversed and this matter should be remanded for a determination of fees and costs.

DATED this 2 day of June, 2015.

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APPENDIX

FILED
MAY 5, 2015
In the Office of the Clerk of Court
WA State Court of Appeals, Division III

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE

JESSICA PEDERSON, Respondent, v. EMPLOYMENT SECURITY DEPARTMENT, STATE OF WASHINGTON, Appellant.	)	No. 32410-9-III UNPUBLISHED OPINION

SIDDOWAY, C.J. — The Employment Security Department (Department) denied Jessica Pederson's application for unemployment benefits, determining she voluntarily quit her job without good cause and therefore was disqualified from receiving unemployment compensation. Because we agree Ms. Pederson did not meet her burden of showing she had good cause to quit her employment, we affirm.

FACTS AND PROCEDURAL BACKGROUND

Ms. Pederson was interviewed for a position as a shipping assistant at Chukar Cherry Company (Chukar) in Prosser, Washington. When she reported for her first day

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of work, Ms. Pederson discovered she was one of three candidates who would work for three days, after which Chukar would offer a permanent job to the individual who best fit the position. Ms. Pederson continued working for the rest of the day, but did not return after that. She subsequently applied for unemployment benefits. In a "Voluntary Quit Statement" submitted to the Department, Ms. Pederson indicated the main reason she quit was that her co-workers informed her she would be replacing the person who had been translating English to Spanish for her, and she "only [knew] English." Administrative Record (AR) at 47, 51.

The Department issued a written determination notice denying Ms. Pederson unemployment benefits and assessing an overpayment of $1,678.00. Ms. Pederson appealed the determination to the Office of Administrative Hearings, and an administrative law judge (ALJ) issued an initial order setting aside the determination of the Department. The ALJ concluded that Ms. Pederson was not disqualified from receiving unemployment benefits because she had established good cause for quitting work. Specifically, the ALJ found that Chukar "changed the terms of employment from full-time permanent to [three]-day temporary," thereby reducing the hours of employment by more than 25 percent. Clerk's Papers (CP) at 11. Under RCW 50.20.050(2)(b)(vi), "[a]n individual is not disqualified from benefits [when] [t]he individual's usual hours were reduced by twenty-five percent or more."

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Chukar appealed the initial order to the Commissioner's Review Office. The commissioner issued a final decision setting aside the ALJ's initial order. The commissioner found Ms. Pederson had not met her burden of showing she quit for any of the eleven enumerated good cause reasons set forth in RCW 50.20.050(2)(b), noting that when she arrived for her first day and learned she did not yet have a permanent position, she chose to begin working "[r]ather than leave at that time." CP at 4. Ms. Pederson sought review of the commissioner's decision by the Yakima County Superior Court. Following a hearing, the court entered findings and conclusions and an order affirming the decision of the commissioner. Ms. Pederson timely appealed. The sole issue before this court is whether the commissioner erred in concluding that Ms. Pederson voluntarily quit without good cause.

ANALYSIS

I. Standard of Review

The Washington Administrative Procedure Act (APA), chapter 34.05 RCW, governs this court's "limited review" of a final decision by the commissioner of the Department. *Campbell v. Employment Sec. Dep't*, 180 Wn.2d 566, 571, 326 P.3d 713 (2014); RCW 34.05.570(1)(b). Under the APA, a party will be granted relief from an adverse administrative decision if "the [agency] decision is based on an error of law, the order is not supported by substantial evidence, or the order is arbitrary and capricious." *Campbell*, 180 Wn.2d at 571; RCW 34.05.570(3)(a)-(i). We give "substantial weight" to

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the agency's interpretations of the law which it is charged with carrying out. *Korte v. Employment Sec.*, 47 Wn. App. 296, 300, 734 P.2d 939 (1987).

A decision by the Department commissioner is considered prima facie correct, *Safeco Ins. Companies v. Meyering*, 102 Wn.2d 385, 391, 687 P.2d 195 (1984), and the party challenging the decision carries the burden of demonstrating its invalidity. *Darkenwald v. Employment Sec. Dep't*, 182 Wn. App. 157, 169, 328 P.3d 977, *review granted*, 337 P.3d 326 (2014); RCW 34.05.570(1)(a). To prevail on appeal, therefore, Ms. Pederson bears the burden of establishing her entitlement to unemployment benefits. *Darkenwald*, 182 Wn. App. at 169.[1]

A review of the decisions of the commissioner and of the ALJ show that the following relevant facts were found:

> [1.] [Ms. Pederson] was employed by Chukar Fruit (employer), for 1 day on March 18, 2013. At the time of the job separation, [she] was

[1] Ms. Pederson's assignments of error speak of error made by "The Court." Br. of Appellant at 1. In reviewing agency actions, however, this court "sit[s] in the same position as the superior court and appl[ies] the APA standards directly to the administrative record." *Campbell*, 180 Wn.2d at 571; *Tapper v. Employment Sec. Dep't*, 122 Wn.2d 397, 402, 858 P.2d 494 (1993). Because "the decision [the appellate court] reviews is that of the agency . . . not of the superior court," *Campbell*, 180 Wn.2d at 571, we do not give deference to the trial court's rulings. *Verizon Nw., Inc. v. Employment Sec. Dep't*, 164 Wn.2d 909, 915, 194 P.3d 255 (2008); *Waste Mgmt. of Seattle, Inc. v. Utilities & Transp. Comm'n*, 123 Wn.2d 621, 633, 869 P.2d 1034 (1994) ("Assignment of error to the superior court findings and conclusions [are] not necessary in review of an administrative action."). We therefore address only the commissioner's decision, as well as that of the ALJ, "to the extent that the [c]ommissioner adopts the ALJ's findings of fact." *Darkenwald*, 182 Wn. App. at 169.

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> working full-time as a nonunion Shipping Coordinator earning $9.19 per hour.
>
> [2.] [Ms. Pederson] believed that she had been hired for the job. However, when she arrived at work the first day, she discovered that she would be working for three days and that after that she would be among a group of several candidates from whom the position would be filled. Rather than leave at that time, [she] began working.
>
> [3.] During that same day, co-workers saw [Ms. Pederson's] resume and commented on her qualifications and suggested that she seemed overqualified and ought to look for other work.
>
> [4.] [Ms. Pederson] did not return to work after that. She told the employer that she did not think the job would be a good fit for her.
>
> [5.] If [Ms. Pederson] had not quit when she did, she could have continued working for at least two more days.

CP at 4-5, 10.

Ms. Pederson did not challenge any of these findings before the trial court, nor does she assign error to them on appeal. Unchallenged findings of fact are treated as verities on appeal, and our review is limited to "whether those findings support the commissioner's conclusions of law." *Darkenwald*, 182 Wn. App. at 170; *Tapper*, 122 Wn.2d at 407. We review the commissioner's legal determinations using the "error of law" standard, which permits us to substitute our view of the law for that of the commissioner. *Verizon NW, Inc. v. Employment Sec Dep't*, 164 Wn.2d 909, 915, 194 P.3d 255 (2008). We also review de novo whether the law was correctly applied to the facts as found by the agency. *Silverstreak, Inc. v. Dep't of Labor & Indus.*, 159 Wn.2d 868, 879-80,154 P.3d 891 (2007).

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II. Employment Security Act

Under Washington's Employment Security Act (Act), chapter 50.01 RCW, a worker who is separated from a job may apply for unemployment benefits by filing a claim with the Department. RCW 50.20.140. To be eligible for benefits, a claimant must show, among other things, that she is able to work, available to immediately accept work, and actively seeking suitable work. RCW 50.20.010(c). The Act's voluntary quit statute, RCW 50.20.050, provides that a claimant is disqualified from receiving benefits if she "left work voluntarily without good cause." RCW 50.20.050(2)(a). The statute sets forth "an exhaustive list of reasons that qualify as good cause to leave work." *Campbell*, 180 Wn.2d at 572; RCW 50.20.050(2)(b).

A. Ms. Pederson was "employed" by Chukar.

Ms. Pederson asserts that she should not have been disqualified from receiving benefits under the voluntary quit statute because she had only a "working interview," and therefore was never actually employed by Chukar. Br. of Appellant at 5. She emphasizes the following conclusion of law from the commissioner's decision:

> While claimant was undoubtedly disappointed when she learned that she did not yet have a permanent position, what she did have was essentially a working interview. She could have continued working the three days and may well have been given the job. At worst, she would have had three days of pay. . . .

CP at 5. But the commissioner also adopted the ALJ's finding that Ms. Pederson "was employed by Chukar Fruit (employer), for [one] day on March 18, 2013" and that, "[a]t

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the time of the job separation, [Ms. Pederson] was working full-time as a nonunion Shipping Coordinator earning $9.19 per hour." CP at 9.

Whether a work situation qualifies as "employment" under the Act is a mixed question of law and fact. *Cascade Nursing Servs., Ltd. v. Employment Sec. Dep't*, 71 Wn. App. 23, 30, 856 P.2d 421 (1993). In addressing mixed questions of law and fact, we "give the same deference to the agency's factual findings as in other circumstances, but apply the law to the facts de novo." *Affordable Cabs, Inc. v. Employment Sec.*, 124 Wn. App. 361, 367, 101 P.3d 440 (2004).

The Act defines "employment" as "personal service, of whatever nature . . . performed for wages or under any contract calling for the performance of personal services, written or oral, express or implied." RCW 50.04.100. Thus, "a work situation satisfies the definition of 'employment'" under the statute "(1) if the worker performs personal services for the alleged employer and (2) if the employer pays wages for those services." *Penick v. Employment Sec. Dep't*, 82 Wn. App. 30, 39, 917 P.2d 136 (1996). Ms. Pederson does not dispute that she worked at Chukar for one "full day" on March 18, 2013, and was paid for her one day of work. AR at 47. Because Ms. Pederson was "employed" within the meaning of the Act, the commissioner properly applied the voluntary quit statute to determine whether she was disqualified from receiving benefits.

B. Ms. Pederson voluntarily quit without good cause

Ms. Pederson next contends that, even if the voluntary quit statute applies, she had good cause for terminating her employment. "Whether a claimant had good cause to quit his or her job is a mixed question of law and fact." *Campbell*, 180 Wn.2d at 573. RCW 50.20.050(2)(a) states, "An individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has left work voluntarily without good cause." If a worker "voluntarily quits" her job, therefore, "she will be denied benefits unless she has 'good cause' for quitting." *Meyering*, 102 Wn.2d at 389.

RCW 50.20.050(2)(b) sets forth "an exhaustive list of reasons that qualify as good cause to leave work." *Campbell*, 180 Wn.2d at 572. Ms. Pederson claims she had good cause for quitting her job at Chukar under RCW 50.20.050(2)(b)(v) and (vi) because her expectation of a 40 hour work week was changed to a three-day working interview. RCW 50.20.050(2)(b) provides, in relevant part:

> An individual is not disqualified from benefits under [the statute] when:
> . . . .
> (v) The individual's usual compensation was reduced by twenty-five percent or more;
> (vi) The individual's usual hours were reduced by twenty-five percent or more.

RCW 50.20.050(2)(b).

"A substantial wage reduction has long been recognized as a compelling reason for terminating one's employment." *Forsman v. Employment Sec. Dep't*, 59 Wn. App.

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76, 81, 795 P.2d 1184 (1990). But to qualify as good cause for quitting work, "some *employer* action must have caused the reduction in the employee's compensation." *Darkenwald*, 182 Wn. App. at 175 (emphasis in original); WAC 192-150-115(3). In *Darkenwald*, the employer asked the employee to work three days per week instead of her usual two. *Id.* at 175. Because this resulted in an increase in the employee's compensation, the court held that the employer "did not cause a reduction in compensation . . . [the claimant] did not have good cause to quit under RCW 50.20.050(2)(b)(vi)." *Id.* at 175-76.

Likewise, while a claimant is not disqualified from receiving unemployment benefits if her usual hours were reduced by 25 percent or more, RCW 50.20.050(2)(b)(vi), she must again show the reduction in hours was caused by the employer. WAC 192-150-120(2). These requirements are consistent with the basic purpose of the Act, which was intended "to award unemployment benefits to those unemployed *through no fault of their own.*" *Meyering*, 102 Wn.2d at 392 (emphasis added); RCW 50.01.010.

Ms. Pederson has not met her burden of establishing that any reduction in hours or compensation was caused by Chukar. The record shows that when she first arrived at work on March 18, Ms. Pederson was told she would work for three days, after which time Chukar would elect one of three candidates to offer a permanent position. Rather than leave at that time, Ms. Pederson continued working. Although she indicated she was

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concerned Chukar might not hire her, Ms. Pederson testified at her hearing before the ALJ that "they didn't dismiss me. I was the one who left." RP at 6. The commissioner found that if Ms. Pederson "had not quit when she did, she could have continued working for at least two more days." CP at 5. The possibility that Chukar might have chosen one of the other candidates after the three days was merely conjectural. *See Korte*, 47 Wn. App. at 301-02 (because many of claimant's objections to contract proposed by her employer were conjectural, she did not have good cause to quit under former RCW 50.20.050).

More importantly, Ms. Pederson has failed to meet her burden of establishing that her decision to leave work was among the 11 enumerated grounds for establishing good cause under the voluntary quit statute. RCW 50.20.050(2)(b)(i)-(xi). Our Supreme Court has made clear that RCW 50.20.050(2)(b) sets forth an exhaustive list of reasons constituting good cause to quit. *Campbell*, 180 Wn.2d at 572 n.2; *see also Darkenwald*, 182 Wn. App. at 179 ("[W]e decline to adopt an additional reason for establishing good cause beyond the exclusive list in RCW 50.20.050(2)(b)."). Because Ms. Pederson has not shown that she quit for any of the exclusive statutory reasons, the commissioner properly denied her unemployment benefits.

Affirmed.

No. 32410-9-III
Pederson v. Employment Security Dep't

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

Siddoway, C.J.

WE CONCUR:

Fearing, J.

Robert Lawrence-Berrey, J.

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Do I have to use the log you provide?

We recommend you use the ***job-search log*** shown on page 41. To get more copies, visit esd.wa.gov and enter "job-search log" in the search box. You're welcome to keep track of your job-search activities on any document you choose, as long as it has all the required information and you are able to provide it if we request it. Please use dark ink and print clearly.

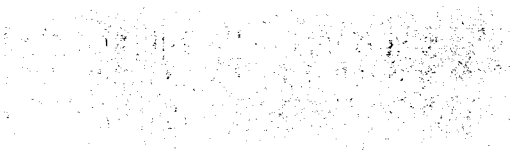
What do I do with my job-search log?

Keep your ***job-search log*** ready because we may request it at any time. *You must keep it at least 60 days after the end of your* ***benefit year*** *or 30 days after you stop receiving benefits, whichever is later.* Do not send it to us unless we request it.

Will you ask for my job-search log?

Yes. You must provide your ***job-search log*** when we request it. We conduct random reviews of job-search logs to make sure you are looking for work. We also may have a question about your job search. If we schedule you for a job-search review, you must appear as instructed. Read the letter carefully to determine whether your interview will be conducted by phone or in-person. Have your identification and job-search log ready.

If your log is missing or incomplete, or you are not making a genuine attempt to find ***suitable work***, you will be denied benefits and have to pay back benefits for all weeks you didn't meet the job-search requirements.



Does everyone have to look for work?

Yes, unless one of the following is true:

- We *approved* you for a training program. (See page 26.)
- We *approved* you for ***Shared Work***. (See page 28.)
- We *approved* you for ***standby***.
- You are a ***full-referral union*** member.
- You are ***partially unemployed***.

Do I have to accept any job offer?

You must accept an offer of ***suitable work*** based on your skills, abilities and ***labor market***. If there are limited jobs in your occupation or geographical area, you may have to expand your search. Consider looking for a job in a different field or location.

How can WorkSource help with my job search?

WorkSource employment centers are partners in the American Job Centers network. They provide employment and training services to job seekers and employers. Most of the services are free. WorkSource employment centers are located throughout Washington. For the nearest center, see page 35 or visit go2worksource.com. If you live outside of Washington, find the nearest American Job Center at careeronestop.org or call 877-872-5627.

WorkSource has these free on-site resources to help you:

- Skill assessment and career guidance.
- Job-search tools like Internet access, copiers, fax machines, computers, printers, newspapers and phones.
- Strategies for finding a job.
- Information about how much jobs pay and which jobs are in demand.
- Referrals to job openings.
- Referrals and appointments for job-search assistance services.
- Assistance preparing your résumé and getting ready for job interviews.
- Sharing job-search strategies with other job seekers.
- Referrals to formal training programs, as well as access to free online training.
- Referrals to food banks, free credit counseling, housing, utilities assistance and many other community resources to help you cope with unemployment. You also can call 211 for additional resources.

You can use our computers to:

- Search go2worksource.com for jobs.
- Look at jobs on other websites.

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- Committing a flagrant act that shows a substantial disregard of the rights or interests of your employer or a fellow employee in connection with your work.

Initial order The decision a judge issues after an appeal hearing.

Job-search log A document used to record and track your weekly job-search contacts and activities.

Labor market The geographical area within a reasonable commuting distance of your home where there are job opportunities in your occupation. It may vary in size, depending on available jobs and your occupation.

Low-income For Training Benefits, you are low-income if you earned an average hourly wage in your base year (or alternate base year) of less than 130 percent of the state minimum wage. To compute your average hourly wage, divide the total wages in your base year by the total hours you worked.

Maximum benefits payable The total amount of benefits you may receive during your benefit year, if you comply with all of the rules and claim enough weeks to reach this amount. To get the full amount, for each week you claim, you must prove you are able to work, available for work and actively seeking suitable work.

Maximum weekly benefit amount The highest amount of weekly benefits an individual may receive. The amount is based on state law, and it may change each year. Visit esd.wa.gov and enter "maximum weekly benefit amount" in the search box.

Minimum weekly benefit amount The lowest amount of weekly benefits an individual may receive. The amount is based on state law, and it may change each year. Visit esd.wa.gov and enter "minimum weekly benefit amount" in the search box.

Misconduct Behavior that results in being fired or suspended from your job and being denied unemployment benefits. This includes acts that show a deliberate disregard for the rights and interests of the employer or a fellow employee.

Overpayment Unemployment benefits you were paid that you were not eligible to receive.

Partially unemployed You:

- Have been hired to work full-time;
- Have your hours temporarily reduced by less than 60 percent;
- Earned less than one and one third times your weekly benefit amount plus $5 during a week; and
- Expect to return to full-time work for the same employer within four months.

Reopen Restarting your unemployment claim after not claiming one or more weeks.

Shared Work A program that offers qualified employers an alternative to laying off employees during general economic downturns.

Standby You are unemployed but you have a specific date to return to work in the next four weeks with a former or new employer. You are only on standby if we tell you that we've approved it. You do not need to look for work but must be available for any work offered by your employer. We verify standby status with your employer. A request for standby for longer than four weeks must be made by your employer and approved by us.

Statement of Wages and Hours A notice we mail you that shows:

- How many hours your employer reported you worked and how much you earned in your base year.
- Your weekly benefit amount and maximum benefits payable.
- Additional messages.

Suitable work Employment in an occupation in line with your prior training, work experience and education unless your regular work does not exist in your labor market.

If you do not have the education or training for a job, suitable work is a job you have the physical and mental ability to perform.

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