

**STATE OF FLORIDA**  
**REEMPLOYMENT ASSISTANCE APPEALS COMMISSION**

In the matter of:

Claimant/Appellant

R.A.A.C. Order No. 13-03975

vs.

Referee Decision No. 13-29513U

Employer/Appellee

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**ORDER OF REEMPLOYMENT ASSISTANCE APPEALS COMMISSION**

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This case comes before the Commission for disposition of the claimant's appeal pursuant to Section 443.151(4)(c), Florida Statutes, of a referee's decision wherein the claimant was held disqualified from receipt of benefits and the employer's account was noncharged.

Pursuant to the appeal filed in this case, the Reemployment Assistance Appeals Commission has conducted a complete review of the evidentiary hearing record and decision of the appeals referee. *See* §443.151(4)(c), Fla. Stat. By law, the Commission's review is limited to those matters that were presented to the referee and are contained in the official record.

The issue before the Commission is whether the claimant voluntarily left work without good cause within the meaning of Section 443.101(1), Florida Statutes.

The referee's findings of fact state as follows:

The claimant worked as a front desk clerk for a marina/boat yard from September 5, 2012, to December 20, 2012. The claimant's husband was involved in a federal investigation about a murder for hire involving the claimant's general manager. The general manager was arrested. The claimant was advised that her husband and she should leave the area. The claimant did not contact the employer, but resigned her position.

Based on these findings, the referee concluded that the claimant voluntarily left work without good cause attributable to the employing unit. Upon review of the record and the arguments on appeal, the Commission concludes the referee's decision as to the issue of good cause is legally erroneous and not in accord with the law; accordingly, it is reversed.

Section 443.101(1), Florida Statutes, provides that an individual shall be disqualified from receipt of benefits for voluntarily leaving work without good cause attributable to the employing unit. Good cause is such cause as "would reasonably impel the average able-bodied qualified worker to give up his or her employment." *Uniweld Products, Inc. v. Industrial Relations Commission*, 277 So. 2d 827 (Fla. 4th DCA 1973). Moreover, the courts have held that, whenever *feasible*, an individual is expected to expend reasonable efforts to preserve his or her employment. *Glenn v. Florida Unemployment Appeals Commission*, 516 So. 2d 88 (Fla. 3d DCA 1987).

A review of the hearing record reflects the claimant was advised by a Federal Drug Enforcement Administration (DEA) agent to leave Florida after the general manager/partial owner of the employer was arrested for allegedly hiring a contract killer to murder another individual. The contract killer allegedly hired by the employer's general manager/partial owner was the claimant's husband, who was working as an undercover DEA agent. The DEA agent advised the claimant and her husband not to communicate with anyone prior to leaving the state. In compliance with the agent's advice, the claimant and her husband relocated to Colorado on the same day the general manager/partial owner was arrested. The DEA agent, who testified at the hearing, stated that due to the ongoing investigation of the employer's general manager/partial owner, both the claimant and her husband were at risk if they remained in Florida. Based on these facts, the referee held the claimant disqualified, reasoning that, while she left employment for a personally compelling reason, it was not attributable to the employer.

Contrary to the referee's reasoning, absent the DEA investigation and arrest of the employer's general manager/partial owner, the claimant and her husband would not have been advised to leave the state for their safety and the claimant would have remained employed. While the actions attributable to the employer were not actions directed to the claimant as an employee, the Commission has concluded that the doctrine of good cause will, in an appropriate case, apply to non-employment actions that directly impact the claimant's employment. For example, in U.A.C. Order No. 11-00412 (April 12, 2011), the Commission concluded that the claimant therein left employment for good cause attributable to the employer because his sister was sexually harrassed by the owner of the employer. The doctrine of good

cause has also been recognized to apply when a claimant leaves employment due to reasonable fears regarding the claimant's safety while working for the employer. *Tannariello v. Federation of Public Employees*, 437 So. 2d 799, 800 (Fla. 4th DCA 1983). Either of these grounds is sufficient to establish good cause attributable to the employer in this case.

Moreover, it was not feasible for the claimant to attempt to preserve her employment by contacting the employer because she had been advised by the DEA agent not to communicate with anyone prior to relocating. Under the specific facts of this case, the Commission concludes the claimant quit with good cause attributable to the employer. The claimant, therefore, is not disqualified from the receipt of benefits.

The decision of the appeals referee is reversed. If otherwise eligible, the claimant is entitled to benefits. The employer's record shall be charged with its proportionate share of benefits paid in connection with this claim.

It is so ordered.

#### REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

Frank E. Brown, Chairman  
Thomas D. Epsky, Member  
Joseph D. Finnegan, Member

This is to certify that on  
7/11/2013,  
the above Order was filed in the office of  
the Clerk of the Reemployment  
Assistance Appeals Commission, and a  
copy mailed to the last known address  
of each interested party.  
By: Kady Thomas  
Deputy Clerk



DEPARTMENT OF ECONOMIC OPPORTUNITY  
Reemployment Assistance Appeals  
MSC 350WD CALDWELL BUILDING  
107 EAST MADISON STREET  
TALLAHASSEE FL 32399-4143

**IMPORTANT:** For free translation assistance, you may call 1-800-204-2418. Please do not delay, as there is a limited time to appeal.  
**IMPORTANTE:** Para recibir ayuda gratuita con traducciones, puede llamar al 1-800-204-2418. Por favor hágalo lo antes posible, ya que el tiempo para apelar es limitado.  
**ENPÒTAN:** Pou yon intèpret asistè ou gratis, nou gendwa rélé 1-800-204-2418. Sil vou plè pa pràn àmpil tòn, paské tòn limitè pou ou ranpli apèl la.

Docket No. 2013-29513U

Jurisdiction: §443.151(4)(a)&(b) Florida Statutes

**CLAIMANT/Appellant**

**EMPLOYER/Appellee**

APPEARANCES: CLAIMANT & EMPLOYER

LOCAL OFFICE #: 3565-0

### DECISION OF APPEALS REFEREE

**Important appeal rights are explained at the end of this decision.**

**Derechos de apelación importantes son explicados al final de esta decisión.**

**Yo eksplike kèk dwa dapèl enpòtan lan fen desizyon sa a.**

**Issues Involved:**

**SEPARATION:** Whether the claimant was discharged for misconduct connected with work or voluntarily left work without good cause as defined in the statute, pursuant to Sections 443.101(1), (9), (10), (11); 443.036(30), Florida Statutes; Rule 73B-11.020, Florida Administrative Code.

**CHARGES TO EMPLOYMENT RECORD:** Whether benefit payments made to the claimant shall be charged to the employment record of the employer, pursuant to Sections 443.101(9); 443.131(3)(a), Florida Statutes; Rules 73B-10.026, 11.018, Florida Administrative Code. (If employer charges are not at issue on the current claim, the hearing may determine charges on a subsequent claim.)

**Findings of Fact:** The claimant worked as a front desk clerk for a marina/boat yard from September 5, 2012, to December 20, 2012. The claimant's husband was involved in a federal investigation about a murder for hire involving the claimant's general manager. The general manager was arrested. The claimant was advised that her husband and she should leave the area. The claimant did not contact the employer, but resigned her position.

**Conclusions of Law:** The law provides that a claimant who voluntarily left work without good cause as defined in the statute will be disqualified for benefits. "Good cause" includes only cause attributable to the

employing unit or illness or disability of the claimant requiring separation from the work. However, a claimant who voluntarily left work to return immediately when called to work by a permanent employing unit that temporarily terminated the claimant's work within the previous 6 calendar months, or to relocate due to a military-connected spouse's permanent change of station, activation, or unit deployment orders, is not subject to this disqualification.

Since the claimant left employment for reasons other than those listed above, Florida Reemployment Assistance law requires disqualification. Although the claimant's reasons for leaving the job may have been personally compelling, they do not meet the qualification requirements for Reemployment Assistance benefits.

**Decision:** The determination dated April 2, 2013, is AFFIRMED. The claimant is disqualified from receiving benefits from December 16, 2012, and until the claimant earns \$3,927. The account record of the employer (2987691) shall be non-charged.

If this decision disqualifies and/or holds the claimant ineligible for benefits already received, the claimant will be required to repay those benefits. The specific amount of any overpayment will be calculated by the department and set forth in a separate overpayment determination, unless specified in this decision. However, the time to request review of this decision is as shown above and is not stopped, delayed or extended by any other determination, decision or order.

This is to certify that a copy of the above decision was mailed to the last known address of each interested party on May 1, 2013.

PEGGY LEIGHT  
Appeals Referee

By:   
DREXELL CARTER, Deputy Clerk

**IMPORTANT - APPEAL RIGHTS:** This decision will become final unless a written request for review or reopening is filed within 20 calendar days after the mailing date shown. If the 20<sup>th</sup> day is a Saturday, Sunday or holiday defined in F.A.C. 73B-21.004, filing may be made on the next day that is not a Saturday, Sunday or holiday. If this decision disqualifies and/or holds the claimant ineligible for benefits already received, the claimant will be required to repay those benefits. The specific amount of any overpayment will be calculated by the Department and set forth in a separate overpayment determination. However, the time to request review of this decision is as shown below and is not stopped, delayed or extended by any other determination, decision or order.

**A party who did not attend the hearing for good cause may request reopening, including the reason for not attending, at <https://iap.floridajobs.org/> or by writing to the address at the top of this decision. The date the confirmation number is generated will be the filing date of a request for reopening on the Appeals Web Site.**

A party who attended the hearing and received an adverse decision may file a request for review to the Reemployment Assistance Appeals Commission, Suite 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151; (Fax: 850-488-2123); <https://raaciap.floridajobs.org/>. If mailed, the postmark date will be the filing date. If faxed, hand-delivered, delivered by courier service other than the United States Postal Service, or submitted via the Internet, the date of receipt will be the filing date. To avoid delay, include the docket number and claimant's social security number. A party requesting review should specify any and all allegations of error with respect to the referee's decision, and provide factual and/or legal support for these challenges. Allegations of error not specifically set forth in the request for review may be considered waived.

**IMPORTANTE - DERECHOS DE APELACIÓN:** Esta decisión pasará a ser final a menos que una solicitud por escrito para revisión o reapertura se registre dentro de 20 días de calendario después de la fecha marcada en que la decisión fue remitida por correo. Si el vigésimo (20) día es un sábado, un domingo o un feriado definidos en F.A.C. 73B-21.004, el registro de la solicitud se puede realizar en el día siguiente que no sea un sábado, un domingo o un feriado. Si esta decisión descalifica y/o declara al reclamante como inelegible para recibir beneficios que ya fueron recibidos por el reclamante, se le requerirá al reclamante rembolsar esos beneficios. La cantidad específica de cualquier sobrepago [*pago excesivo de beneficios*] será calculada por la Agencia y establecida en una determinación de pago excesivo de beneficios que será emitida por separado. Sin embargo, el límite de tiempo para solicitar la revisión de esta decisión es como se establece anteriormente y dicho límite no es detenido, demorado o extendido por ninguna otra determinación, decisión u orden.

Una parte que no asistió a la audiencia por una buena causa puede solicitar una reapertura, incluyendo la razón por no haber comparecido en la audiencia, en <https://iap.floridajobs.org/> o escribiendo a la dirección en la parte superior de esta decisión. La fecha en que se genera el número de confirmación será la fecha de registro de una solicitud de reapertura realizada en el Sitio Web de la Oficina de Apelaciones.

Una parte que asistió a la audiencia y recibió una decisión adversa puede registrar una solicitud de revisión con la Comisión de Apelaciones de Desempleo; Reemployment Assistance Appeals Commission, Suite 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151; (Fax: 850-488-2123); <https://raaciap.floridajobs.org/>. Si la solicitud es enviada por correo, la fecha del sello de la oficina de correos

será la fecha de registro de la solicitud. Si es enviada por telefax, entregada a mano, entregada por servicio de mensajería, con la excepción del Servicio Postal de Estados Unidos, o realizada vía el Internet, la fecha en la que se recibe la solicitud será la fecha de registro. Para evitar demora, incluya el número de expediente [*docket number*] y el número de seguro social del reclamante. Una parte que solicita una revisión debe especificar cualquiera y todos los alegatos de error con respecto a la decisión del árbitro, y proporcionar fundamentos reales y/o legales para substanciar éstos desafíos. Los alegatos de error que no se establezcan con especificidad en la solicitud de revisión pueden considerarse como renunciados.

**ENPÒTAN – DWA DAPÈL:** Desizyon sa a ap definitiv sòf si ou depoze yon apèl nan yon delè 20 jou apre dat nou poste sa a ba ou. Si 20<sup>yèm</sup> jou a se yon samdi, yon dimanch oswa yon jou konje, jan sa defini lan F.A.C. 73B-21.004, depo an kapab fèt jou aprè a, si se pa yon samdi, yon dimanch oswa yon jou konje. Si desizyon an diskalifye epi/oswa deklare moun k ap fè demann lan pa kalifye pou alokasyon li resevwa deja, moun k ap fè demann lan ap gen pou li remèt lajan li te resevwa a. Se Ajans lan k ap kalkile montan nenpòt ki peman anplis epi y ap detèmine sa lan yon desizyon separe. Sepandan, delè pou mande revizyon desizyon sa a se delè yo bay anwo a; Okenn lòt detèminasyon, desizyon oswa lòd pa ka rete, retade oubyen pwolonje dat sa a.

Yon pati ki te gen yon rezon valab pou li pat asiste seyans lan gen dwa mande pou yo ouvri ka a ankò; fòk yo bay rezon yo pat ka vini an epi fè demann nan sou sitwèb sa a, <https://iap.floridajobs.org/> oswa alekri nan adrès ki mansyone okomansman desizyon sa a. Dat yo pwodui nimewo konfimasyon an se va dat yo prezante demann nan pou reouvri kòz la sou Sitwèb Apèl la.

Yon pati ki te asiste seyans la epi ki pat satisfè desizyon yo te pran an gen dwa mande yon revizyon nan men Reemployment Assistance Appeals Commission, Suite 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151; (Fax: 850-488-2123); <https://raaciap.floridajobs.org/>. Si ou voye l pa lapòs, dat ki sou tenb la ap dat ou depoze apèl la. Si ou depoze apèl la sou yon sitwèb, ou fakse li, bay li men nan lamèn, oswa voye li pa yon sèvis mesajri ki pa Sèvis Lapòs Lèzetazini (*United States Postal Service*), oswa voye li pa Entènèt, dat ki sou resi a se va dat depo a. Pou evite reta, mete nimewo rejis la (*docket number*) avèk nimewo sekirite sosyal moun k ap fè demann lan. Yon pati k ap mande revizyon dwe presize nenpòt ki alegasyon erè nan kad desizyon abit la, epi bay baz reyèl oubyen legal pou apiye alegasyon sa yo. Yo p ap pran an konsiderasyon alegasyon erè ki pa byen presize nan demann pou revizyon an.

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Any questions related to benefits or claim certifications should be referred to the Claims Information Center at 1-800-204-2418. An equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Voice telephone numbers on this document may be reached by persons using TTY/TDD equipment via the Florida Relay Service at 711.

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