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Title 22@ Social Security

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Division 1@ Employment Development Department

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Subdivision 1@ Director of Employment Development

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Division 1@ Unemployment and Disability Compensation

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Part 1@ Unemployment Compensation

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Chapter 5@ UNEMPLOYMENT COMPENSATION BENEFITS

## **1256-19 Voluntary Leaving -Good Cause -Prospects of**

Article 1@ ELIGIBILITY AND DISQUALIFICATIONS

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Section 1256-19@ Voluntary Leaving -Good Cause -Prospects of Other Work

### **(a)**

Scope. This section relates to whether good cause for leaving the most recent work exists when an individual leaves work to seek other work or to accept other work. Sections 1256-1, 1256-2, and 1256-3 of these regulations set forth general principles also applicable under this section.

### **(b)**

Seek Other Work. An individual who leaves work to seek other work does not have good cause for leaving the work unless the individual leaves part-time work to seek full-time work because the part-time work prevents an effective search for full-time work.

### **(c)**

Accept Other Work. An individual who leaves work to accept other work has good cause for leaving the work if there was a definite assurance of employment in another substantially better job which is at least as permanent as the job the individual leaves, or if other circumstances establish that a reasonable person genuinely desirous of retaining employment would have left work to accept the other work. (1) Definite New Job. Since an individual is expected to take every reasonable step to preserve continuous employment, good cause for leaving a job for another job requires a definite assurance of a starting date on the new job. A

hope or speculative expectation of obtaining a new job is not sufficient to establish good cause for leaving work. However, good cause is not negated by leaving the prior job a few days early to move closer to the new job or otherwise prepare for the new job, including a reasonable rest period if the individual has not recently had a vacation.

EXAMPLE 1. A, a bookkeeper, left the job the day before A's definite starting day on a new permanent job for which A had been hired at a substantial pay increase. A was to replace a retiring employee on the new job. On A's starting date for the new job, A was unable to begin work because the employer notified A that the employee scheduled to retire had delayed the retirement. The delay in retirement continued for several weeks. A's leaving was with good cause because A had a definite promise and commitment to a new job with a definite starting day but the job failed to materialize through the new employer's failure to provide the new job.

EXAMPLE 2. B left the job on the day B was told by B's new employer of a definite starting date a week later. The new job was a permanent job closer to B's residence and was offered at a substantial pay increase. B had not had a recent vacation. B used the one-week interval between jobs to rest and take a vacation. B's leaving was with good cause for a substantially better job and the one-week vacation interval between jobs was reasonable and did not negate good cause.

(2) Permanence of Jobs. Leaving permanent full-time work to take temporary work generally is without good cause. However, it may be with good cause if an individual has accumulated substantial rights in customary seasonal work and leaves a nonseasonal permanent job to return upon recall to the normal seasonal job to preserve the substantial rights acquired. Leaving temporary work to accept permanent work is generally with good cause even if the permanent work pays the same or even less than the temporary work. Similarly, leaving part-time work to accept full-time permanent employment is

with good cause, but leaving full-time work to accept part-time work is without good cause unless the individual has compelling reasons such as protection of health for taking part-time work (see Section 1256-15 of these regulations for provisions as to leaving due to health). A claimant who leaves a job due to obtaining a new job by false representations of his or her capability to do the work and is discharged from the new job for lack of such capability has left the first job without good cause. (3) Comparison of Jobs. In determining whether a new job is substantially better than the prior job, all factors which influence an individual's decision to leave the prior job for the new job are considered. These include relative pay, opportunities for advancement, skills required, seniority rights, working conditions, and the location and the permanency of the jobs. Comparing pay and other factors of the old and new jobs to determine if the new job is substantially better than the old job cannot be reduced to definite standards or a prescribed formula. However, if other factors are equal, a pay increase in the new job of more than 10% is usually substantial. Pay includes the basic wage, shift differentials, board and room furnished by the employer, and guaranteed overtime. Pay also includes fringe benefits such as vacation pay and insurance if such fringe benefits are currently available or set schedules and information to value the fringe benefits for both jobs is available. Speculative fringe benefits whose receipt is dependent on contingencies, such as pension, vacation and sick leave, are given less weight in pay comparison to the extent that their values and the probability of future realization are uncertain. In some cases the retention of skills used on a new job but not on the old job may justify leaving the old job even if the pay is not substantially better on the new job. For example, a stenographer might leave a clerk-typist job to take a stenographic job, with good cause, even if no pay increase were involved, due to the importance of preserving stenographic

skills to maintain ability for employment at the higher skill. EXAMPLE 3. C, an operating engineer, worked varying shifts on any day of the workweek and the job was about 25 miles from C's home. C left work for a permanent job of regular 8-hour shifts on only five days a week, located four miles from C's home at a 5% pay increase. C's leaving was with good cause since the new job was substantially better because it was permanent regular shift work located closer to C's home, although the pay was not substantially better. EXAMPLE 4. D, a sales representative, left one job for another at more than a 20% base pay increase and a car allowance more than 40% better than the old job. The new job offered no immediate pension plan whereas the old job had a pension plan. Considering the pension plan and other pay and fringe benefits the new job was substantially more valuable than the old. D's leaving was with good cause for a new job with substantially better pay and fringe benefit rights. However, the pension benefit was of little weight since the future realization of pension was speculative and uncertain. EXAMPLE 5. E was told by the employer that the employer's operations were to be moved in the near future. The new location would involve a trip from E's residence excessive in both cost and distance. E sought work with another employer by whom E had previously been employed, and obtained an offer of work. E left the work to take E's new job. E's leaving was with good cause to take the new job since E would have had compelling reasons to leave the old job when the transfer to the new plant occurred, and loss of E's old job was imminent.

**(1)**

Definite New Job. Since an individual is expected to take every reasonable step to preserve continuous employment, good cause for leaving a job for another job requires a definite assurance of a starting date on the new job. A hope or speculative expectation of obtaining a new job is not sufficient to establish good cause for leaving

work. However, good cause is not negated by leaving the prior job a few days early to move closer to the new job or otherwise prepare for the new job, including a reasonable rest period if the individual has not recently had a vacation. EXAMPLE 1. A, a bookkeeper, left the job the day before A's definite starting day on a new permanent job for which A had been hired at a substantial pay increase. A was to replace a retiring employee on the new job. On A's starting date for the new job, A was unable to begin work because the employer notified A that the employee scheduled to retire had delayed the retirement. The delay in retirement continued for several weeks. A's leaving was with good cause because A had a definite promise and commitment to a new job with a definite starting day but the job failed to materialize through the new employer's failure to provide the new job. EXAMPLE 2. B left the job on the day B was told by B's new employer of a definite starting date a week later. The new job was a permanent job closer to B's residence and was offered at a substantial pay increase. B had not had a recent vacation. B used the one-week interval between jobs to rest and take a vacation. B's leaving was with good cause for a substantially better job and the one-week vacation interval between jobs was reasonable and did not negate good cause.

## **(2)**

Permanence of Jobs. Leaving permanent full-time work to take temporary work generally is without good cause. However, it may be with good cause if an individual has accumulated substantial rights in customary seasonal work and leaves a nonseasonal permanent job to return upon recall to the normal seasonal job to preserve the substantial rights acquired. Leaving temporary work to accept permanent work is generally with good cause even if the permanent work pays the same or even less than the temporary work. Similarly, leaving part-time work to accept full-time permanent employment is with good cause, but leaving full-time work to accept

part-time work is without good cause unless the individual has compelling reasons such as protection of health for taking part-time work (see Section 1256-15 of these regulations for provisions as to leaving due to health). A claimant who leaves a job due to obtaining a new job by false representations of his or her capability to do the work and is discharged from the new job for lack of such capability has left the first job without good cause.

### **(3)**

Comparison of Jobs. In determining whether a new job is substantially better than the prior job, all factors which influence an individual's decision to leave the prior job for the new job are considered. These include relative pay, opportunities for advancement, skills required, seniority rights, working conditions, and the location and the permanency of the jobs. Comparing pay and other factors of the old and new jobs to determine if the new job is substantially better than the old job cannot be reduced to definite standards or a prescribed formula. However, if other factors are equal, a pay increase in the new job of more than 10% is usually substantial. Pay includes the basic wage, shift differentials, board and room furnished by the employer, and guaranteed overtime. Pay also includes fringe benefits such as vacation pay and insurance if such fringe benefits are currently available or set schedules and information to value the fringe benefits for both jobs is available. Speculative fringe benefits whose receipt is dependent on contingencies, such as pension, vacation and sick leave, are given less weight in pay comparison to the extent that their values and the probability of future realization are uncertain. In some cases the retention of skills used on a new job but not on the old job may justify leaving the old job even if the pay is not substantially better on the new job. For example, a stenographer might leave a clerk-typist job to take a stenographic job, with good cause, even if no pay increase were involved, due to the importance of preserving stenographic skills to maintain ability for employment at the

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