

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0009

Affirmed
Disqualification

PROCEDURAL HISTORY: On October 24, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision #142455). Claimant filed a timely request for hearing. On December 12, 2013, ALJ Shoemake conducted a hearing, and on December 16, 2013 issued Hearing Decision 13-UI-06593, affirming the Department's decision. On December 30, 2013, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Furniture Outlet employed claimant from July 16, 2013 to August 28, 2013 as a salesperson in Bend, Oregon.

(2) Claimant worked two days per week, eight hours per day for the employer, and earned \$10 per hour.

(3) Claimant lived near Bend, Oregon during her employment. She owed a bi-annual house insurance payment of approximately \$600 and a mortgage payment of approximately \$680 in September. Claimant did not have funds to pay all the amounts due for the house.

(4) Early in August 2013, claimant spoke with a realtor about selling her house in Bend, Oregon. A buyer immediately offered to purchase the house. Claimant agreed to sell the house, and to vacate the house by September 30, 2013.

(5) On approximately August 14, 2013, claimant gave the employer notice she would end her employment on August 28, 2013. During September 2013, claimant prepared to move.

(6) Claimant decided to move to live with her brother in Eagle Point, Oregon, and to look for work there. Claimant completed the sale of her house, and on October 1, 2013, claimant moved to Eagle Point, Oregon.

(7) Claimant voluntarily left work on August 28, 2013 because she could not afford to pay her house insurance and her mortgage for September 2013.

CONCLUSIONS AND REASONS: We agree with the Department and the ALJ and conclude claimant voluntarily left work without good cause.

A claimant who leaves work voluntarily is disqualified from the receipt of benefits unless she proves, by a preponderance of the evidence, that she had good cause for leaving work when she did. ORS 657.176(2)(c); *Young v. Employment Department*, 170 Or App 752, 13 P3d 1027 (2000). “Good cause” is defined, in relevant part, as a reason of such gravity that a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would have no reasonable alternative but to leave work. OAR 471-030-0038(4) (August 3, 2011). The standard is objective. *McDowell v. Employment Department*, 348 Or 605, 612, 236 P2d 722 (2010). A claimant who quits work must show that no reasonable and prudent person would have continued to work for her employer for an additional period of time.

Claimant quit work because she could not afford to pay her house insurance payment and her mortgage for September 2013. In August 2013, she agreed to sell her house and to vacate the house by September 30, 2013. Claimant presumably was no longer required to make mortgage and insurance payments for her house once she sold it. The record does not show claimant looked for alternate housing in the Bend, Oregon area, or that doing so would have been futile. Rather than quit work to move to Eagle Point, Oregon where she had no job, claimant could have continued to work and look for housing in the Bend area. Moreover, claimant did not assert or show she could not have continued working beyond August 28, 2013 while preparing to move. Claimant left work on August 28, 2013, but did not arrive in Eagle Point until October 1, 2013. Claimant had the reasonable alternative of continuing to work until a date closer to when she moved to Eagle Point. She worked two days per week, and could have prepared to move during the five days per week she did not work. Claimant failed to show she faced a situation of such gravity that she had no reasonable alternative but to quit work when she did.

Claimant quit work without good cause and is disqualified from the receipt of benefits based on this work separation.

DECISION: Hearing Decision 13-UI-06593 is affirmed.

Susan Rossiter and D. E. Larson;
Tony Corcoran, not participating.

DATE of Service: January 29, 2014

NOTE: You may appeal this decision by filing a Petition for Judicial Review with the Oregon Court of Appeals within 30 days of the date of service listed above. See ORS 657.282. For forms and information, you may write to the Oregon Court of Appeals, Records Section, 1163 State Street, Salem, Oregon 97310, or visit the website at <http://courts.oregon.gov/OJD/OSCA/acs/records/AppellateCourtForms.page>.

Note: The above link may be broken due to unannounced changes to the Court of Appeals website, in which case you may contact the Appellate Records at (503) 986-5555.