

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0230

Affirmed
Disqualification

PROCEDURAL HISTORY: On December 23, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily quit work without good cause (decision # 130225). Claimant filed a timely request for hearing. On January 15, 2014, ALJ Micheletti conducted a hearing, and on January 23, 2014 issued an Amended Hearing Decision 14-UI-08748, affirming the Department's decision. On February 6, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Linfield College employed claimant as Dean of the Division of Continuing Education from July 7, 1997 through November 30, 2013.

(2) In June 2011, the President of the school hired a new Academic Vice President (AVP) who supervised claimant. The AVP treated claimant in a brusque manner. The AVP spoke to claimant harshly, ignored her, used a profanity during a conversation with claimant, and embarrassed her in meetings. Claimant did not complain to human resources or to the President about the AVP's behavior.

(3) Claimant believed the AVP's treatment of her was an attempt to encourage claimant to quit in order to replace claimant with a less expensive worker. The final incident that triggered claimant's decision to quit occurred when the AVP refused to spend funds to control the verification of online students in accordance with federal law. Claimant did not report this dispute to either human resources or the President. Claimant quit her job on November 30, 2013.

CONCLUSIONS AND REASONS: 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 provided unrefuted testimony that the AVP treated her with disrespect privately and in the presence of others. Claimant experienced stress and depression as a result of the treatment. However, claimant had the reasonable alternative of reporting the AVP's conduct to human resources or to the President of the school. Claimant argued that complaining to human resources or to the President was futile, but she provided no evidence to support this position. Claimant did not show good cause for failing to pursue these reasonable alternatives prior to quitting.

Claimant failed to certify that she provided a copy of her argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). Therefore, we did not consider the argument when reaching this decision.

DECISION: Hearing Decision 14-UI-08748 is affirmed.

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

DATE of Service: February 25, 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.