

## EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0233

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On December 4, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision #135419). Claimant filed a timely request for hearing. On January 30, 2014, ALJ Kirkwood conducted a hearing, and on January 31, 2014 issued Hearing Decision 14-UI-09603, affirming the Department's decision. On February 5, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant submitted written argument to EAB. Claimant's argument contained information that was not part of the hearing record, and failed to show that factors or circumstances beyond claimant's reasonable control prevented claimant from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (October 29, 2006), we considered only information received into evidence at the hearing when reaching this decision.

**FINDINGS OF FACT:** (1) Hach Company employed claimant from March 4, 2013 to November 1, 2013 as an implementation coordinator.

(2) The employer's compliance engineer reviewed claimant's work. Claimant was dissatisfied with how the compliance engineer communicated with her. When the compliance engineer did not approve the work, he sometimes made statements like, "You don't get it," "I don't have time to do your work," "I can't do it for you," and "Are you that dense?" Transcript at 7.

(3) Claimant was also dissatisfied with the compliance engineer's refusal to document the procedures he used so that claimant could refer to his procedures and follow them. When the compliance engineer did not approve claimant's work, she had to redo the work.

(4) Claimant felt stressed and tired from work because she often had to redo her assignments and because she did not like the way the compliance officer spoke to her. She sometimes would cry after

work. She did not seek medical attention or speak to a counselor about her stress. The employer provides free counselling sessions through its employee assistance program.

(5) On August 26, 2013, claimant complained to her manager about the way the compliance engineer spoke to her, and his refusal to document his work so she could use it as a reference. The manager spoke to the compliance engineer about his communication style.

(6) On October 16, 2013, claimant told her manager she was unhappy with her role at work, and that she was looking for other work. The manager told claimant the employer was satisfied with her work performance, and that the mistakes she was making were part of learning how to perform her job.

(7) On October 29, 2013, claimant's manager learned that claimant and the compliance engineer had exchanged a series of unprofessional emails, so he arranged a meeting for October 30, 2013 to address the conflict between claimant and the compliance engineer.

(8) On October 30, 2013, claimant's manager met with claimant, the compliance engineer, and two other managers to discuss techniques to improve email communication and the approval process for claimant's work. The compliance engineer stated that he would not document his procedures for other employees to follow.

(9) On November 1, 2013, claimant resigned because she was dissatisfied with the compliance engineer's refusal to document his work for her to use as a reference, and because of the compliance engineer's style of communicating with her.

(10) The employer has an employee complaint hotline for employees to report work-related complaints. The hotline information is posted in the workplace. Hotline complaints are forwarded to the employer's human resources department. Employees can also complain directly to human resources. Human resources contact information was available on the employer's website. The employee handbook directs employees to complain to an immediate manager, a more senior manager, human resources, or legal or internal audit staff. Claimant first contacted human resources when she sent it a copy of her resignation letter on November 1, 2013.

**CONCLUSIONS AND REASONS:** We agree with the Department and the ALJ that 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, in part, because the compliance engineer made rude comments to her when he did not approve her work. Although the compliance engineer's comments were unprofessional and rude, claimant did not show that his comments created a situation so grave that she had no reasonable alternative but to quit. Claimants are not required to "sacrifice all other than economic objectives and \* \* \* endure racial, ethnic, or sexual slurs or personal abuse, for fear that abandoning an oppressive situation will disqualify the worker from unemployment benefits." *McPherson v. Employment Division*, 285 Or 541, 557 (1979). Applying *McPherson's* "oppressive situation" standard to the facts of this case, claimant did not show that the compliance engineer's comments created an oppressive situation. The record does not show that the compliance engineer yelled, used foul language, or threatened claimant, or that his conduct was so severe or persistent as to rise to the level of "abuse." See *Kathryn A. Johnson* (Employment Appeals Board, 11-AB-2272, September 6, 2011) (regular fits of temper and verbal abuse); *Denisa Swartout* (Employment Appeals Board, 11-AB-3063, October 28, 2011) (corporate culture hostile to women). Rather than quitting when she did, claimant had the reasonable alternative of waiting to see if the compliance engineer's communication style improved after the October 30, 2013 meeting addressing the issue of professionalism and email communication. Claimant did not show that it was futile to continue to participate in the manager's dispute resolution process.

Additionally, rather than quit work, claimant could have complained to the employer's human resources department about her coworker's comments. Claimant asserted that her manager told her to refrain from contacting human resources. Transcript at 34. However, the employer had a complaint hotline claimant could have used to complain to human resources, and the employee handbook specifically directs employees to complain to higher levels of management and human resources when necessary. Claimant failed to show that no reasonable and prudent person of normal sensitivity, exercising ordinary common sense, who was dissatisfied with the results of her complaint to her manager, would have complained to senior management or human resources.

To the extent claimant quit work because the compliance engineer would not record the procedures he used, claimant did not show by a preponderance of the evidence that she left work with good cause. Claimant was dissatisfied with having to rework her assignments when she believed she could have completed the work more efficiently using the compliance engineer's recorded procedures as a reference. Having to do the additional work caused claimant to feel tired and stressed. Claimant did not show that the stress was so severe that she had no reasonable alternative but to quit. The employer was satisfied with claimant's work performance. Claimant had the reasonable alternative of continuing to work.

Claimant failed to show that she faced a situation of such gravity that she had no reasonable alternative to leaving work when she did. Because claimant had reasonable alternatives to leaving work when she did, claimant did not establish good cause for leaving work. Claimant is disqualified from receiving unemployment insurance benefits on the basis of this work separation.

**DECISION:** Hearing Decision 14-UI-09603 is affirmed.

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

**DATE of Service:** March 6, 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>.

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