

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0249

Affirmed
Disqualification

PROCEDURAL HISTORY: On November 15, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 150225). Claimant filed a timely request for hearing. On January 17, 2014, ALJ Kirkwood conducted a hearing, and on January 21, 2013 issued Hearing Decision 14-UI-08831, affirming the Department's decision. On February 10, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant submitted a written argument in which he contended for the first time that the employer's managers required him to work off the clock, assigned extra work to him and constantly yelled at him. Although claimant stated at hearing that on one occasion two coworkers had shouted at him, he did not present evidence at hearing that suggested the work environment was abusive or that any allegedly abusive behavior caused him to quit. Audio at ~31:00. Claimant did not refer at hearing to any requirement that he work off the clock, and testified only that, once when he started work early and had not clocked in, his supervisor clocked in for him when the supervisor noticed that he was working before the starting time for his shift. Audio at ~20:31, ~23:47. Claimant did not mention at hearing that any supervisors ever assigned extra work to him. At hearing, the ALJ allowed claimant much latitude, and he had more than ample opportunity to state the events and circumstances that caused him to leave work. Audio at ~24:00, ~29:00, ~33:45. Because the new information that claimant offered is not supported by evidence already in the record and claimant did not show that factors or circumstances beyond his reasonable control prevented him from offering this information during the hearing, EAB did not consider it when reaching this decision. *See* ORS 657.275(2); OAR 471-041-0090 (October 29, 2006)

We have examined the hearing record, and agree with the ALJ that the incident when claimant fell behind in his work on October 1, 2013, which apparently motivated claimant to leave work, was not objectively grave. It was an incident that a reasonable and prudent person would have considered a short-lived frustration. We also agree with the ALJ that claimant was well acquainted with the

employer's managers and the employer's chain of command. Audio at ~9:24 *et seq.*, ~14:50, ~34:30. Claimant did not show that, under the circumstances he described on his final day, a reasonable and prudent person would have left work without first raising his concerns with the employer's management and allowing them an opportunity to resolve his difficulties. For these reasons, we concur with the ALJ that claimant did not show good cause for leaving work when he did.

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), the hearing decision under review is **adopted**.

DECISION: Hearing Decision 14-UI-08831 is affirmed.

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

DATE of Service: March 11, 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.