

## EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0284

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On October 2, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision #155114). Claimant filed a timely request for hearing. On January 29, 2014, ALJ Holmes-Swanson conducted a hearing, and on January 30, 2014 issued Hearing Decision 14-UI-09534, affirming the Department's decision. On February 18, 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) Oregon College of Oriental Medicine employed claimant from September 3, 1999 to September 10, 2013 as a business services and bookstore manager.

(2) On September 3, 2013, claimant returned to work after a two-week vacation. She and other staff received an email from claimant's supervisor stating the employer planned to reorganize several departments during the beginning of the school year, including the business services and bookstore department. The supervisor instructed staff to attend a reorganization meeting on September 9, 2013 to discuss their ideas and concerns. Claimant was dissatisfied with the proposed changes because she would have to share space in the bookstore with another department, and because the changes would increase claimant's workload and reduce the assistance she would receive from other employees.

(3) On or about September 6, 2013, claimant met with the director of human resources to discuss the stress she felt from the proposed changes. Claimant discussed the possibility of taking a leave of

absence from work because she felt overwhelmed by the changes. The employer was willing to grant a leave of absence if it was for medical reasons. If it was not for medical reasons, the college president had to approve the leave request. The director suggested claimant wait and participate in the reorganization meeting on September 9, 2013. Claimant attended the meeting, but did not express her concerns during the meeting.

(4) On September 10, 2013, claimant met with her supervisor and the director of human resources to discuss whether she would continue her employment. The employer would not allow claimant to telecommute, or to work part-time or on an on-call basis due to its business needs. Claimant did not request a leave of absence.

(5) On September 10, 2013, claimant left work because the employer was going to make changes to claimant's department that would increase claimant's workload.

**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 left work because she did not want to be responsible for the changes in her department at work. Transcript at 10. Claimant testified that she felt overwhelmed and was "constantly crying" during the week after she learned of the proposed changes to her department. Transcript at 9. Although the parties agreed claimant's workload would probably increase with the changes, the record does not show that the changes to claimant's workload or working environment created a situation 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. Furthermore, the supervisor and the human resources director requested input from claimant and other staff regarding their concerns and ideas for the reorganization. Claimant had the opportunity to discuss her concerns at the reorganization meeting on September 9, 2013. Claimant testified that she chose not to do so because the supervisor had described her as an "obstacle," resistant to the employer's direction, in her performance evaluation several months earlier. Transcript at 12 to 15, 27. Claimant did not show that discussing her concerns in the employer's problem-solving meeting would have been futile. Thus, claimant failed to show that no reasonable and prudent person would have continued to work without first discussing her concerns with her supervisor. Moreover, claimant could have continued to discuss her concerns with the human resources director. If she was unable to cope with the stress, she could have requested a leave of absence. The employer was willing to grant a leave of absence for medical reasons.

Claimant failed to establish that she faced a situation of such gravity that she had no reasonable alternative but to leave work when she did. We therefore conclude that claimant quit work without good cause, and that she is disqualified from receiving unemployment insurance benefits based on this work separation.

**DECISION:** Hearing Decision 14-UI-09534 is affirmed.

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

**DATE of Service:** March 12, 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.