

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0396

Affirmed
Disqualification

PROCEDURAL HISTORY: On November 7, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit work without good cause (decision # 132516). Claimant filed a timely request for hearing. On January 10, 2014, ALJ Lohr conducted a hearing, and on February 21, 2014 issued Hearing Decision 14-UI-10773, affirming the Department's decision. On March 12, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant failed to certify that she provided a copy of her written 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.

FINDINGS OF FACT: (1) Oasis Outsourcing, Inc. employed claimant as a telephone salesperson from May 8, 2013 to October 4, 2013.

(2) Claimant and her supervisor were friends outside of work. Over time, claimant grew to dislike her supervisor and the way she treated claimant at work. When the supervisor was upset with claimant, she would not talk to her. On one occasion, the supervisor told claimant she was being stupid.

(3) On October 2, 2014, claimant's supervisor and the employer's executive director gave claimant a documented verbal warning for making too few sales calls during the third quarter of her shift. Claimant disagreed with the warning. The executive director reminded claimant that during the month of October, she would be transitioning from being an hourly employee, earning \$11 per hour, to working on straight commission.

(4) Claimant quit work because she did not like the way her supervisor treated her at work, and because she did not want to work on straight commission.

CONCLUSIONS AND REASONS: We agree with the Department and the ALJ that claimant quit 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 she did not like the way her supervisor treated her. At hearing, claimant asserted that she was not treated “fairly,” felt she was being treated “poorly in comparison to others,” and “felt” that it was a “hostile work environment.” Transcript at 5-6. Claimant also asserted that her supervisor made her “feel” like she was “ignorant” and “stupid.” Transcript at 14-15. With respect to her supervisor’s behavior, however, claimant testified only that when the supervisor was upset with claimant, she would not talk to her, that on one occasion, the supervisor told claimant she was being stupid, that the supervisor brought “several outside issues” into work. Transcript at 13-14. Claimant did not allege behavior rising to the level of a hostile work environment, or otherwise so egregious that no reasonable and prudent person would have continued to work for her employer for an additional period of time. Thus, to the extent claimant quit because she did not like the way her supervisor treated her, she failed to establish good cause.

Claimant also quit work, in part, because she did not want to work on straight commission. However, claimant did not assert or show that the cost of working for the employer likely would have exceeded the remuneration she would have received. Absent such a showing, we cannot find good cause.

We therefore conclude that claimant quit work without good cause. Claimant is disqualified from the receipt of benefits.

DECISION: Hearing Decision 14-UI-10773 is affirmed.

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

DATE of Service: March 28, 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.