

## EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0465

*Affirmed  
Disqualification*

**PROCEDURAL HISTORY:** On January 16, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit work without good cause (decision # 90306). Claimant filed a timely request for hearing. On March 12, 2014, ALJ Hoppe conducted a hearing, and on March 14, 2014 issued Hearing Decision 14-UI-12460, affirming the Department's decision. On March 21, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant failed to certify that he provided a copy of his written argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). The argument also contained information that was not part of the hearing record, and failed to show that factors or circumstances beyond claimant's reasonable control prevented him from offering the information during the hearing as required by OAR 471-041-0090 (October 29, 2006). We considered only information received into evidence at the hearing when reaching this decision. *See* ORS 657.275(2).

**FINDINGS OF FACT:** (1) Pacific Recreational Products employed claimant from February 23, 2012 to October 18, 2013, last as a web implementation specialist.

(2) The employer typically had approximately seven employees. The employer also had a high employee turnover rate, with approximately 30 employees quitting work or being discharged within a few years.

(3) As a web implementation specialist, claimant worked with a team of three other employees. The websites they designed and implemented did not meet the employer's expectations. Prior to September 2013, two of claimant's coworkers quit work, and the other coworker was discharged. One of the coworkers who quit did so because the employer was searching for her replacement.

(4) In mid-September 2013, the employer's owner told claimant that as the owner, he had to make some decisions about the team. The owner noted that the employer's team had consisted of claimant and his former coworkers, and that only claimant remained. The owner told claimant that sometimes a business must start fresh with its team for the business to succeed.

(5) From mid-September through October 7, 2013, the websites claimant's team had designed and implemented continued to underperform. The owner was dissatisfied with claimant's work but had not decided to discharge claimant.

(6) On October 7, 2013, claimant notified the employer he was quitting work. On October 18, 2013, claimant quit work to avoid a potential discharge.

**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 he proves, by a preponderance of the evidence, that he had good cause for leaving work when he 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 his employer for an additional period of time.

Claimant quit work to avoid a potential discharge. Claimant's concern that he would be discharged was understandable given the employer's high employee turnover rate, the departure of claimant's coworkers, the owner's comment about the employer starting fresh with a new team, and his dissatisfaction with claimant's work. However, the owner had not decided to discharge claimant, and his comment about the employer starting fresh with a new team did not clearly indicate otherwise. Claimant failed to show that his discharge was so certain and imminent, and that a discharge on his employment record would so interfere with his search for other work, that no reasonable and prudent person would have continued to work for his employer for an additional period of time. Absent such showings, claimant failed to establish that he quit work with 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-12460 is affirmed.

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

**DATE of Service:** April 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.