

## EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0514

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On January 10, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit work without good cause within 15 days of a planned quit with good cause (decision # 93018). The employer filed a timely request for hearing. On March 24, 2014, ALJ M. Davis conducted a hearing, and on March 27, 2014 issued Hearing Decision 14-UI-13542, concluding that claimant quit work without good cause. On April 1, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Renew Consulting employed claimant as a caregiver from February 1 through September 11, 2013.

(2) Claimant lived and worked for the employer in Lincoln City, Oregon. In May 2013, claimant began a romantic relationship with a woman who lived and worked in Florence, Oregon, providing care and assistance to her grandmother and neighbors.

(3) In August 2013, claimant reported to her supervisor, the employer's program manager, that another caregiver had given a client a prescription medication for which the client had no prescription. The program manager investigated the matter, and determined that the other caregiver had opened the medication, but had not given it to the client.

(4) On September 2, 2013, claimant notified the employer that she was quitting work, effective September 17, 2013, to move to Middletown, California with her girlfriend, who was moving there to take care of some houses her grandmother owned.

(5) On September 11, 2013, claimant quit work. Claimant subsequently reported to the employer's regional manager that the other caregiver had given a resident a prescription medication for which the client had no prescription, and falsified another client's medication documentation. Claimant told the regional manager that she was quitting because other employees, including the program manager, were

“covering it up,” and that the program manager had threatened to discharge an employee who reported the falsification of the client’s medication documentation. Transcript at 9.

(6) On September 30, 2013, claimant moved to Middletown to be with her girlfriend.

**CONCLUSIONS AND REASONS:** Claimant quit work without good cause.

A claimant who quits work typically is disqualified from the receipt of benefits unless she proves, by a preponderance of the evidence, that she had good cause for quitting when she did. ORS 657.176(2)(c); *Young v. Employment Department*, 170 Or App 752, 13 P3d 1027 (2000). However, when an individual notifies an employer that she will quit work on a specific date, but quits work without good cause no more than 15 days prior to the date of the planned quit, and the planned quit would have been for good cause, then the work separation shall be adjudicated as if the actual quit had not occurred and the planned quit had occurred. ORS 657.176(6). However, the individual shall be ineligible for benefits for the period including the week in which the actual quit occurred through the week prior to the week of the planned quit date. *Id.*

Quitting work with good cause includes quitting due to compelling family reasons, including the need to accompany the individual’s domestic partner to a place from which it is impractical for such individual to commute, due to a change in location of the domestic partner’s employment. OAR 471-030-0038(5)(g) (August 3, 2011), OAR 471-030-0038(1)(e). Otherwise, “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 notified the employer that she was quitting work, effective September 17, 2013, to move to Middletown, California with her partner, who was moving there to take care of some houses her grandmother owned. However, claimant did not quit work for good cause under OAR 471-030-0038(5)(g) and OAR 471-030-0038(1)(e) because her girlfriend was not her domestic partner. Nor did claimant otherwise show that her girlfriend moving to California was of such gravity that no reasonable and prudent person would have continued to work for her employer for an additional period. Claimant therefore failed to establish that her planned quit would have been for good cause, and ORS 657.176(6) does not apply to claimant’s work separation. Claimant therefore is disqualified from receiving benefits if she failed to establish that she quit work without good cause on September 11, 2013.

At hearing, claimant asserted that she quit work on September 11, 2013 because employees, including the program manager were “covering up” another caregiver’s “unethical and illegal activities.” Transcript at 5. At hearing, however, the program manager testified that she investigated claimant’s report that the caregiver had given a client a prescription medication for which the client had no prescription, and determined that the caregiver had not done so. Transcript at 22-23. The program manager also denied receiving any reports that the caregiver falsified another client’s medication documentation. Transcript at 23-24. We find the evidence on those issues, at best, equally balanced. Claimant failed to show that the other caregiver engaged unethical or illegal activities, that other employees, including the program manager, acted to conceal those activities, and that complaining to the

regional manager would have been futile. Absent such a showing, claimant failed to establish that she quit work with good cause.

**DECISION:** Hearing Decision 14-UI-13542 is affirmed.

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

**DATE of Service:** April 30, 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.