

## EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0559

*Affirmed*  
*Disqualification*  
*(Descalificación)*

**PROCEDURAL HISTORY:** On February 3, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision #104137). Claimant filed a timely request for hearing. On March 21, 2014, ALJ Vincent conducted a hearing, and on April 1, 2014 issued Hearing Decision 14-UI-13881, affirming the Department's decision. On April 5, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant submitted written argument to EAB. Claimant failed to certify that he provided a copy of his 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) Triquint Semiconductor employed claimant from June 25, 2012 to January 12, 2014 as a fab operator.

(2) In January 2013, claimant began attending school part time at Mt. Hood Community College, and planned on completing a civil engineering technician program. Claimant was not required by law to attend school. He received financial assistance from the Trade Adjustment Assistance (TAA) Program. Claimant would not complete the training program before the TAA assistance ended unless he attended school full time.

(3) In January 2014, the employer decided to lay off 120 employees, and offered severance pay to employees who agreed to be laid off from work. The employer told its employees it would reorganize and decide after the first round of layoffs if it would need to lay off additional employees. The employer told the employees it might then lay off employees according to seniority, without giving them severance pay. Claimant had less seniority than most of the other employees.

(4) On January 12, 2014, claimant voluntarily left work to attend school full time and to avoid being discharged without receiving severance pay.

**CONCLUSIONS AND REASONS:** We agree with the Department and the ALJ and conclude claimant voluntarily left 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 quitting 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 quit work. OAR 471-030-0038(4). 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. OAR 471-030-0038(4). Quitting work without good cause includes quitting work to attend school, unless required by law. OAR 471-030-0038(5)(b)(D).

To the extent claimant quit work to avoid being laid off without severance pay, he quit work without good cause. Claimant had the choice of continuing to work, or leaving work with severance pay. Although claimant had less seniority than other employees, there was only a possibility that the employer would lay off additional employees after the initial 120 employees, and only a possibility it would use seniority to determine who it would discharge. Claimant failed to show that no reasonable and prudent person in his circumstances, who had the option of continuing to work for the employer, would have chosen to leave work rather than work for an additional period of time.

To the extent claimant quit work to attend school full time, he also quit work without good cause under OAR 471-030-0038(5)(b)(D) because he was not required by law to attend school. Claimant therefore is disqualified from receiving unemployment insurance benefits.

**DECISION:** Hearing Decision 14-UI-13881 is affirmed.

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

**DATE of Service:** April 29, 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.

**NOTA:** *Usted puede apelar esta decisión presentando una solicitud de revisión judicial ante el Tribunal de Apelaciones de Oregon dentro de los 30 días siguientes a la fecha de notificación enumerados anteriormente. Ver ORS 657.282. Para obtener formularios e información, puede escribir a la (Oregon Court of Appeals, Records Section) Corte de Apelaciones de Oregon, Sección de Registros, 1163 State Street, Salem, Oregon 97310, o visitando el sitio en el Internet en <http://courts.oregon.gov/OJD/OSCA/acs/records/AppellateCourtForms.page>.*

*Nota: El vínculo anterior puede no funcionar debido a cambios sin previo aviso al sitio en el Internet de la Corte de Apelaciones, dádose el caso puede ponerse en contacto con el Registro de Apelaciones (Appellate Records) al (503) 986-5555.*