

## EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0821

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On February 27, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit work without good cause (decision # 140844). Claimant filed a request for hearing. On April 22, 2014, ALJ Vincent conducted a hearing, and on April 30, 2014 issued Hearing Decision 14-UI-16520, concluding that claimant's request for hearing was timely, and affirming decision # 140844. On May 13, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant 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). 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 claimant 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) Butler & Looney, PC employed claimant as a law office assistant from January 16, 2012 to February 10, 2014.

(2) On January 2, 2014, the employer notified claimant that the employer was going to replace her. The employer did not state when it was going to hire claimant's replacement. The employer asked claimant to continue working for the employer until she trained her replacement. The employer did not state how long it expected claimant to train her replacement.

(3) Claimant began seeking other work. Claimant determined that she would need time off from work for job interviews. She assumed the employer would not allow her time off for that reason. Claimant therefore did not ask if she could have time off from work for job interviews.

(4) On February 7, 2014, claimant notified the employer she was quitting work, effective February 10. The employer scheduled an interview with a potential replacement for claimant on February 10.

(5) On February 10, 2014, claimant quit work so she would have time for job interviews. The employer interviewed claimant's potential replacement. On February 13, 2014, the employer hired her replacement.

**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 P3d 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 so she would have time for job interviews before the employer discharged her. However, the employer did not intend to discharge claimant until after it hired her replacement, and claimant trained her replacement. Claimant failed to show that the employer was even searching for her replacement when she notified the employer she was quitting work. Nor did claimant show that she had any job interviews scheduled for which she needed time off, that she asked the employer for time off, and that the employer denied her request. Absent a preponderance of evidence showing claimant was going to be discharged in the near future, and the employer was unwilling or unable to allow her time off for job interviews, claimant failed to establish that no reasonable and prudent person would have continued to work for her employer for an additional period of time.

Claimant failed to establish that she quit work with good cause, and is disqualified from the receipt of benefits.

**DECISION:** Hearing Decision 14-UI-16520 is affirmed.

Tony Corcoran and J. S. Cromwell;  
Susan Rossiter, not participating.

**DATE of Service:** June 20, 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 [court.oregon.gov](http://court.oregon.gov). Once on the website, click on the blue tab for "Materials and Resources." On the next screen, click on the tab that reads "Appellate Case Info." On the next screen, select "Appellate Court Forms" from the left panel. On the next page, select the forms and instructions for the type of Petition for Judicial Review that you want to file.

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