

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0842

Reversed & Remanded

PROCEDURAL HISTORY: On April 9, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 92422). Claimant filed a timely request for hearing. On May 8, 2014, ALJ Seideman conducted a hearing, and on May 9, 2014, issued Hearing Decision 14-UI-17159, affirming the Department's decision. On May 15, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant's argument contained information that was not part of the hearing record, and failed to show that factors or circumstances beyond his reasonable control prevented claimant from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (October 29, 2006), we considered only information received into evidence at the hearing when reaching this decision.

CONCLUSIONS AND REASONS: Hearing Decision 14-UI-17159 should be reversed, and this matter remanded to the Office of Administrative Hearings (OAH).

A claimant who leaves work voluntarily is disqualified from the receipt of benefits unless he (or she) 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 the employer for an additional period of time.

Claimant asserted that he quit work because of a "stressful work environment" and because he felt his managers were "treating him unfairly." Audio Record ~ 6:15 to 9:15. Claimant explained that he was put under constant pressure to achieve "unreasonable sales targets" and that he decided to quit on March

18, 2014 when his supervisor called him into a meeting, gave him a “corrective action” document and suggested claimant resign. *Id.* However, The ALJ did not ask, and the record fails to show, what the “unreasonable” sales targets were, why claimant thought they were unreasonable, what claimant’s sales performance up to March 18 had been, and what the requirements and timelines were imposed by the corrective action document. Although claimant testified that the work environment was “really, really stressful”, the ALJ did not ask and the record fails to show whether claimant sought medical treatment for his stress. Moreover, although the last sentence of the ALJ’s order in Hearing Decision 14-UI-17159 states claimant “is subject to disqualification from benefits”, the prior sentence states “the administrative decision [which disqualified claimant from benefits] is set aside.” Accordingly, it is unclear what the ALJ’s decision was.

ORS 657.270 requires the ALJ to give all parties a reasonable opportunity for a fair hearing. That obligation necessarily requires the ALJ to ensure that the record developed at the hearing shows a full and fair inquiry into the facts necessary for consideration of all issues properly before the ALJ in a case. ORS 657.270(3); *see accord Dennis v. Employment Division*, 302 Or 160, 728 P2d 12 (1986). Because the ALJ failed to develop the record necessary for a determination of whether claimant quit work with good cause, Hearing Decision 14-UI-17159 is reversed, and this matter is remanded for development of the record.

DECISION: Hearing Decision 14-UI-17159 is set aside, and this matter remanded for further proceedings consistent with this order.

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

DATE of Service: June 26, 2014

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Hearing Decision 14-UI-17159 or return this matter to EAB. Only a timely application for review of the subsequent hearing decision will cause this matter to return to EAB.

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. 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.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveymonkey.com/s/5WQXNJH>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.