

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-1052

Affirmed
Disqualification

PROCEDURAL HISTORY: On April 21, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 111127). Claimant filed a timely request for hearing. On May 29, 2014, ALJ Shoemake conducted a hearing, and on June 3, 2014 issued Hearing Decision 14-UI-18849, affirming the Department's decision. On June 17, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant submitted written argument to EAB in which she submitted new information that she did not offer into evidence at hearing. The new information related to a June 2014 decision from the employer regarding a complaint claimant filed with the employer in March 2014, and a coworker's resignation, announced in June 2014. OAR 471-041-0090 (October 29, 2006) provides that new information may be considered when the party offering the information establishes that factors or circumstances beyond claimant's reasonable control prevented claimant from offering the information during the hearing, and the new information is relevant and material to EAB's determination. Because the new information relates to events that occurred after the hearing, claimant has shown that circumstances beyond her reasonable control prevented her from offering the information into evidence at hearing. However, claimant quit work on February 13, 2014. The employer's decision about a complaint claimant made after she quit, and the resignation of a coworker after claimant quit, are not material to EAB's determination regarding whether claimant had good cause to quit. EAB therefore did not consider claimant's new information.

FINDINGS OF FACT: (1) Lane Community College employed claimant from March 9, 2010 to February 13, 2014 as a part time administrative specialist.

(2) Claimant believed she had too much work to complete. In October 2013, claimant complained to her supervisor, who arranged for a discussion regarding claimant's workload between claimant, the supervisor, and the associate dean of claimant's department. The dean told claimant the employer would reduce her work duties with time. Claimant was satisfied with the dean's response at that time.

(3) Claimant disliked the manner in which her lead worker spoke to her when the lead worker was dissatisfied with claimant's work. On occasion, claimant asked the lead worker to speak in a more collaborative manner, and the lead worker improved her manner and tone of speaking. Claimant did not complain to her supervisor or dean about the lead worker, but did complain to human resources and the union about her. The union did not respond. Claimant was dissatisfied with human resources' recommendation that she speak with the comptroller.

(4) In January 2014, claimant's blood pressure increased, and claimant went to her doctor. Her doctor recommended she try to relax and use stress management techniques.

(5) Claimant applied for another position with the employer, but was not given the position. The employer did not have transfer options available for claimant. Claimant's supervisor did not permit claimant to reduce her hours by two hours per week.

(6) By January 2014, claimant's workload had not decreased, and claimant continued to feel stress from her workload.

(7) On February 13, 2014, claimant quit work because she was dissatisfied with how her lead worker spoke to her, and due to her workload. During her exit interview, claimant complained to the associate dean of her department about how her lead worker treated her.

(8) On March 25, 2014, claimant filed a complaint with the employer's president against her lead worker and the associate dean of her department regarding her workload and the lead worker's manner of speaking to claimant.

CONCLUSIONS AND REASONS: We agree with the Department and the ALJ that claimant voluntarily left 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, in part, because her workload caused her stress. The record does not show that claimant's work-related stress created a situation of such gravity that claimant had no alternative but to leave work when she did. Claimant's doctor told her to use stress reduction techniques, but the record does not show that claimant received medical advice to quit her job. Furthermore, claimant could have complained again to her supervisor and associate dean, who had responded to her complaints in the past. Or, claimant could have filed a complaint with the college president before she quit, rather than waiting until after she quit. She did not show that such complaints would have been futile. Thus, claimant

failed to show that no reasonable and prudent person would have continued to work without first discussing her concerns leadership at the college.

Claimant also quit work, in part, due to the allegedly hostile manner her lead worker spoke to her. Claimant testified that her lead worker would “attack” her with criticism, and speak in an unprofessional manner when she was dissatisfied with claimant’s work. Transcript at 11, 14. Although claimant established that her lead worker was sometimes curt and unprofessional, she did not allege that she yelled at her, used foul language toward her, called her names, or threatened her with physical harm. Claimant failed to establish that the lead worker’s behavior was so egregious that no reasonable and prudent person would have continued to work for her employer for an additional period of time.

The record shows claimant tried unsuccessfully to improve her working relationship with her lead worker by complaining to human resources and her union. However, claimant knew she could complain to the college leadership, but did not do so before she left work because of her stress level and the delay in pursuing a complaint. Transcript at 13 to 14. Claimant did not show that it would have been futile to complain to the employer’s leadership before quitting. Moreover, although claimant experienced elevated blood pressure due to work stress, the record does not show that her work environment or medical condition was so severe as to prevent her from continuing to work for an additional period of time, while seeking assistance from the employer’s president.

Claimant failed to show good cause for quitting work. She is, therefore, disqualified from receiving unemployment insurance benefits because of this work separation.

DECISION: Hearing Decision 14-UI-18849 is affirmed.

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

DATE of Service: July 23, 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. 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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