

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-1172

Affirmed
Disqualification

PROCEDURAL HISTORY: On May 8, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit work with good cause (decision # 161529). The employer filed a timely request for hearing. On June 9, 2014, ALJ Clink conducted a hearing, and on June 19, 2014 issued Hearing Decision 14-UI-20011, concluding that claimant quit work, but without good cause. On July 8, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

EAB considered the entire hearing record and claimant's written argument to the extent it was based on information received into evidence at the hearing. *See* ORS 657.275(2) and OAR 471-041-0090 (October 29, 2006).

FINDINGS OF FACT: (1) The claimant Manson was employed by Oregon Housing & Community Services employed claimant as a full time public service representative from September 24, 2012, through March 7, 2014.

(2) On April 2, 2013, claimant's 17 year old sister was diagnosed with grade 4, Arteriovenous Malformation (AVM), a large, deep tangle of blood vessels in her brain, which caused her to experience seizures. Claimant's sister lived with their parents in Georgia. Claimant's disabled father cared for her sister during the day, and he and her mother cared for her in the evenings. Claimant's brother lived approximately 1 hour away.

(3) The chance of an AVM bleeding into the brain is 1% to 3% per year. Over 15 years, the total chance of an AVM bleeding into the brain, causing brain damage and stroke, is 25%. The risk of death related to each bleed is 10% to 15%. The chance of permanent brain damage is 20% to 30%. Each time blood leaks into the brain, normal tissue is damaged, resulting in temporary or permanent loss of normal function, including arm or leg weakness/paralysis, or difficulty with speech, vision or memory. The amount of brain damage depends on how much blood has leaked from the AVM.

(4) Claimant quit work to move to Georgia to spend time with her sister and help care for her. Claimant was entitled to use her accrued sick, vacation and personal leave, or take a personal leave of absence, to for that purpose.

CONCLUSIONS AND REASONS: We agree with the ALJ that claimant quit 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).

Claimant quit work to move to Georgia to spend time with her sister and help care for her. When claimant quit work, however, her parents and, if necessary, her brother could provide the care her sister needed. Claimant therefore had the reasonable alternative of continuing to work for her employer and using her accrued sick, vacation and personal leave, or take a personal leave of absence, to spend time with her sister and help care for her. Although claimant’s desire to spend more time with her sister is understandable, the good cause 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 failed to meet that burden.

Claimant quit work without good cause, and is disqualified from the receipt of benefits.

DECISION: Hearing Decision 14-UI-20011 is affirmed.

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

DATE of Service: August 7, 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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