

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-1290

Affirmed
Disqualification

PROCEDURAL HISTORY: On July 3, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 82000). Claimant filed a timely request for hearing. On July 25, 2014, ALJ Seideman conducted a hearing at which the employer did not appear, and on July 25, 2014 issued Hearing Decision 14-UI-22271, affirming the Department's decision. On July 30, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Pacific Interpreters, Inc. employed claimant as a customer service representative from November 1, 2013 until February 3, 2014.

(2) Beginning in approximately 2008, claimant started travelling regularly to Kosovo and Serbia on "humanitarian missions" of varying durations. Audio at ~4:49. Claimant provided assistance in opening specialty clinics and in recruiting businesses to help reach the objectives of the missions in those countries.

(3) Sometime before February 3, 2014, claimant decided to move permanently to Kosovo or Serbia to assist in missions. Claimant notified the employer that he was quitting work on February 3, 2014. At that time, claimant intended to remain indefinitely in Kosovo and Serbia and he did not explore taking a leave of absence from work. Claimant left work on February 3, 2014 and shortly thereafter moved to Kosovo or Serbia.

CONCLUSIONS AND REASONS: 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 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 P3d 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.

While claimant left work to pursue humanitarian objectives in a foreign country, he did not present evidence showing that the situation in Kosovo or Serbia was a grave reason that would cause a reasonable and prudent person to conclude that he had no alternative but to leave his work in the United States. Claimant did not contend, for example, that improving the conditions in Kosovo or Serbia was somehow vital to his well-being and that, for some reason, only he could provide the needed assistance to those countries. Absent this or a similar showing of gravity, claimant did not meet his burden to demonstrate that he had good cause for leaving work when he did.

From the record, it appears that "family issues" required claimant to return to the United States shortly after he moved to Kosovo or Serbia, and that claimant filed this request for hearing when the Department denied his claim for benefits after a work separation from a subsequent employer. Audio at ~7:27, ~9:07. At hearing, claimant contended that his work separation from that subsequent employer should be considered in determining whether he was disqualified from receiving benefits. Audio at ~6:58. However, claimant agreed that he only earned \$510 from that subsequent employer before he was released, and that his weekly benefit amount was \$195. Audio at ~10:49. ORS 657.176(2) states that an individual is disqualified from benefits based on a disqualifying work separation until he has earned remuneration in subsequent employment that equals or exceeds four times the individual's weekly benefit amount, or \$780 in claimant's case. Since claimant's remuneration from his subsequent employment was less than \$780, the Department correctly concluded that claimant's work separation from the employer was the proper work separation to evaluate in determining whether claimant was disqualified from benefits.

Claimant did not show good cause for leaving work when he did. Claimant is disqualified from receiving unemployment insurance benefits.

DECISION: Hearing Decision 14-UI-22271 is affirmed.

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

DATE of Service: September 3, 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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