

**EMPLOYMENT APPEALS BOARD DECISION**  
**2014-EAB-1353**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On June 24, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 19136). Claimant filed a timely request for hearing. On July 25, 2014, ALJ Shoemake conducted a hearing, and on August 1, 2014 issued Hearing Decision 14-UI-22652, affirming the Department's decision. On August 12, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Alcar Properties employed claimant from April 1, 2014 to May 16, 2014 as a part time apartment manager and leasing agent. Claimant's wife was co-manager of the apartments.

(2) A tenant wanted to have her personal air conditioning unit installed in the apartment she rented from the employer. Claimant arranged for the tenant to have her own contractor install the unit. The employer had a property manager who supervised claimant and the property. On or about May 15, 2014, the employer's property manager arranged to have the employer's contractor install the unit for the tenant sooner.

(3) On approximately May 16, 2014, claimant called the property manager and stated he was dissatisfied that the property manager changed his plan for the air conditioning unit installation.

(4) On May 19, 2014, the property manager met with claimant at a coffee shop to clarify claimant's job duties. The property manager asked claimant to attend paid informational meetings about landlord and tenant issues. Claimant was dissatisfied with the request. Claimant discussed his dissatisfaction with the property manager's decision to have the employer's contractor install the tenant's air conditioner. The property manager responded to claimant, "Did it ever occur to you that you may be wrong?" Audio Record at 21:43 to 21:47. Claimant stood up and stated, "I'm leaving before I say anything worse. You might as well fire me now." Audio Record at 21:49 to 22:01. Claimant walked away, and did not contact the employer or report to work again. The employer did not tell claimant that he was discharged.

**CONCLUSIONS AND REASONS:** We agree with the Department and the ALJ and conclude claimant voluntarily left work without good cause.

The first issue is the nature of the work separation. If the employee could have continued to work for the same employer for an additional period of time, the work separation is a voluntary leaving. OAR 471-030-0038(2)(a) (August 3, 2011). If the employee is willing to continue to work for the same employer for an additional period of time but is not allowed to do so by the employer, the separation is a discharge. OAR 471-030-0038(2)(b).

The purpose of the employer's May 19, 2014 meeting with claimant was to clarify his job duties, thus the employer had continuing work available for claimant at that time. It is undisputed that claimant became angry during the meeting, got up, and walked away. The property manager did not speak to claimant or see him again after he walked away from the meeting. Audio Record at 23:06 to 24:08. He told the property manager that the employer "might as well fire [him] now," and did not report to work or contact the employer after May 19. Audio Record at 21:49 to 22:01. Claimant's act of leaving the meeting before it ended, and failing to contact the employer again, showed his unwillingness to continue working for the employer. Because claimant could have continued to work for the employer for an additional period of time, the work separation was a quit.

A claimant who leaves work voluntarily is disqualified from the receipt of benefits unless he proves, by a preponderance of 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 her employer for an additional period of time.

Claimant asserted at hearing that he was discharged. Consequently, claimant did not assert a reason for why he voluntarily left work. We infer that claimant quit work, in part, because the property manager did not follow claimant's plan to install the tenant's air conditioner. Claimant testified that the property manager undermined his authority and ability to work effectively with the tenants when she failed to follow his plan for the installation. Audio Record at 28:29 to 29:42. However, the property manager supervised claimant and the property, and had the authority to decide how to install the air conditioner. Claimant failed to establish that the property manager's behavior was so egregious or caused conditions that were so grave for claimant that no reasonable and prudent person would have continued to work for his employer for an additional period of time.

We also infer that claimant quit work, in part, because he perceived the informational classes recommended by the employer would be a "waste of time." Audio Record at 16:54 to 17:14. However, claimant's supervisor had the right to expect claimant to participate in paid training related to his job duties. Claimant failed to show that the employer's request was unreasonable, or that it posed a risk to his health or safety. Claimant's perception that the training would be a "waste of time" did not constitute a situation of such gravity that a reasonable and prudent person had no reasonable alternative but to leave work on May 19, 2014.

Claimant voluntarily quit work without good cause, and is therefore disqualified from receiving unemployment benefits based on this work separation.

**DECISION:** Hearing Decision 14-UI-22652 is affirmed.

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

**DATE of Service:** September 16, 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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