

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-1388

Affirmed
Disqualification

PROCEDURAL HISTORY: On July 2, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 70043). Claimant filed a timely request for hearing. On July 30, 2014, ALJ Wipperman conducted a hearing, and on August 4, 2014 issued Hearing Decision 14-UI-22716, affirming the Department's decision. On August 20, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

In her written argument claimant cites OAR 471-030-0038(2)(b), which provides that "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." Claimant contends that her work separation was a discharge because she "clearly returned [to work] a few hours" after she walked off the job, and the employer refused to allow her to work. We disagree. Claimant left her work station on March 15, 2014, informed a coworker who was acting as a manager that she quit, filled out a written resignation at the request of the manager, and left. Claimant's actions clearly indicated that she was unwilling to continue working for the employer, even though continuing work was available at the time she walked off the job. Although claimant had second thoughts, and later called the manager, apologized, and asked to return to work, the employer had no obligation to rescind claimant's resignation.

Claimant also cites her behavior as an "isolated instance of poor judgment". This is an exception to willful or wantonly negligent misconduct in a discharge, not in a voluntary leaving.

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), the hearing decision under review is **adopted**.

DECISION: Hearing Decision 14-UI-22716 is affirmed.

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

DATE of Service: August 28, 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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