

**EMPLOYMENT APPEALS BOARD DECISION**  
**2014-EAB-1701**

*Reversed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On September 12, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 135527). Claimant filed a timely request for hearing. On October 22, 2014, ALJ Clink conducted a hearing, and on October 24, 2014 issued Hearing Decision 14-UI-27529, affirming the Department's decision. On October 29, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Oregon Child Development employed claimant from January 1, 2012 to August 14, 2014 as a transportation coordinator.

(2) Claimant was responsible for supervising the employer's transportation staff, coordinating the employer's bus routes, and resolving transportation issues for families attending two of the employer's care and education centers. Claimant was hired as a salaried employee to work from 8 a.m. to 4:30 p.m., five days per week. Due to her workload, claimant worked from 7:30 a.m. to 5 or 6 p.m., five days per week. In addition to her regular work hours, the employer expected claimant to be available at all times to assist if transportation issues arose, and often called claimant before and after work and on her days off to resolve issues.

(3) During 2013, claimant began to experience stress and anxiety due to her workload. Claimant told her supervisor "many" times she was unable to handle the workload, and felt stressed and overwhelmed. Audio Record at 13:00 to 13:39. Claimant's supervisor discussed changes with claimant, but the employer made no changes to improve claimant's workload.

(4) In January 2014, claimant sought medical care due to her stress level. Her doctor prescribed her with medication. Claimant began taking the medication, but was unable to continue taking it because it made her sick.

(5) During 2014, claimant took a week of vacation, but her supervisor called her on her days off. When claimant returned to work, she felt additional stress and anxiety because she had to complete the work that accumulated during her absence, as well as her new tasks.

(6) The employer had no other positions available in claimant's area. Claimant sought other work during 2014, but was unable to find another job in her area.

(7) During June and July 2014, claimant continued to feel stressed and overwhelmed, and became depressed. When claimant was not at work, she isolated herself and felt unable to care for or communicate with her children. Claimant's two teenage children began to experience problems outside the home.

(8) On July 31, 2014, claimant gave the employer two weeks' notice she would end her employment on August 14, 2014. Claimant detailed her dissatisfaction with her working conditions in the exit interview form. Claimant's supervisor told claimant she could take a month off from work. Claimant declined the offer to take time off work.

(9) On August 14, 2014, claimant left work to remedy her stress and depression.

**CONCLUSIONS AND REASONS:** We disagree with the Department and the ALJ and conclude claimant voluntarily left work with 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.

In Hearing Decision 14-UI-27529, the ALJ found that claimant did not have good cause to quit because she had reasonable alternatives to quitting. The ALJ suggested that three alternatives were available to claimant:

"The claimant did not discuss her concerns with the employer or file a formal complaint prior to her resignation in an attempt to resolve the issues. The claimant did not see a doctor and ask for protected medical leave. The claimant declined the employer's offer of a month off work.<sup>1</sup>"

Claimant voluntarily left work because the stress from her working conditions caused her to feel depressed and overwhelmed such that it interfered with her ability to interact with her family. Claimant complained to her supervisor repeatedly, but her working conditions did not improve. In concluding

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<sup>1</sup> Hearing Decision 14-UI-27529 at 1.

that claimant had the reasonable alternative of filing a written grievance, the ALJ implicitly found that the employer had a grievance process, and that claimant was aware of it. The employer did not participate in the hearing, and presented no evidence regarding a grievance process. Claimant testified that “there’s really no one to file [written grievances] to.” Audio Record at 10:00 to 10:14. Claimant testified that she had a human resources representative in her office, but that claimant’s supervisor also supervised the human resources representative. Audio Record at 10:36 to 10:43. We infer from claimant’s testimony that claimant assumed the human resources staff would not override the supervisor’s direction. We find that assumption reasonable. Moreover, the ALJ overlooks the evidence in the record that although claimant discussed her concerns about her working conditions with her supervisor “many” times, the employer made no changes to address claimant’s concerns, and claimant’s working conditions did not improve. Audio Record at 13:00 to 13:39. Thus, the record fails to show that filing a formal complaint prior to her resignation was a reasonable alternative for claimant.

Nor does the record show that asking for family medical leave or otherwise taking time off from work was a reasonable alternative for claimant. Claimant expressly contradicted the reasonableness of those alternatives, with her unrefuted testimony that her supervisor still expected claimant to be available by telephone when she took time off work, had called her repeatedly during her vacations in the past, and would “pile up” claimant’s work so her workload was even larger when claimant returned. Audio Record at 19:30 to 21:26. Claimant proved by a preponderance of the evidence that continuing to work for the employer and taking a leave of absence from work, was not a reasonable alternative for her.

In sum, claimant showed by a preponderance of the evidence that no reasonable and prudent person would continue working for the employer for an additional period of time. Claimant therefore quit work with good cause. She is not disqualified from receiving unemployment insurance benefits because of her work separation.

**DECISION:** Hearing Decision 14-UI-27529 is set aside, as outlined above.

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

**DATE of Service:** December 11, 2014

**NOTE:** This decision reverses a hearing decision that denied benefits. Please note that payment of any benefits owed may take from several days to two weeks for the Department to complete.

**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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