

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-1775

*Affirmed
Disqualification*

PROCEDURAL HISTORY: On September 25, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 110601). Claimant filed a timely request for hearing. On November 4, 2014, ALJ Murdock conducted a hearing, and on November 6, 2014 issued Hearing Decision 14-UI-28310, affirming the Department's decision. On November 14, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

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

FINDINGS OF FACT: (1) National Vision, Inc. employed claimant from April 13, 2013 to August 29, 2014 as a third-key manager.

(2) The employer expected claimant to meet monthly sales goals. Claimant did not consistently meet her sales goals. When claimant did not meet her sales goal, her supervisor coached her about how to improve her sales, and told claimant she could receive written warnings if she did not meet her sales goals. Claimant did not receive any written warnings for her sales performance and the employer did not state claimant's job was in jeopardy. Claimant was dissatisfied that the employer did not appear to value her work.

(3) Claimant felt stress from the employer's sales expectations and the tone of voice her supervisor used when she spoke to claimant and other employees. Claimant perceived the office environment to be tense. She had stomach problems due to the stress. Claimant did not tell the employer she was experiencing stress or stomach problems.

(4) In June 2014, a customer complained about an incident that allegedly involved claimant, and mentioned claimant specifically by name. The employer gave claimant a verbal warning about the

complaint, but did not send a formal written warning to the corporate office. Claimant was concerned the complaint would affect her job. Claimant later realized she was not at work the day of the alleged incident, but did not tell the employer.

(5) On or about July 30, 2014, claimant notified the employer she was quitting work at the end of August 2014.

(6) On August 29, 2014, claimant quit work due to stressful working conditions.

CONCLUSIONS AND REASONS: We agree with the ALJ and conclude claimant voluntarily left work 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). 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.

At hearing, claimant testified that she was dissatisfied with living in Woodburn, Oregon, and wanted to move to the Albany, Oregon area because it was costly for her domestic partner to commute from Woodburn to his job in Albany. Audio Record at 8:15 to 8:55, 10:59 to 11:11. However, claimant further testified that, but for the stress from work, she would not have quit when she did, and would have waited to move to the Albany area until her domestic partner was more established in his job in Albany. Audio Record at 19:06 to 19:45. Thus, it was work stress, and not her domestic partner’s commute, that triggered claimant’s decision to quit work. That was the proximate cause of claimant’s decision to quit work, and therefore, the proper focus of our analysis.

Claimant quit work because she was dissatisfied with her working conditions. Claimant felt unappreciated and experienced stress from work because her supervisor told her she could receive warnings if she failed to meet her sales goals, and sometimes used a negative tone of voice when she spoke to employees. Audio Record at 14:27 to 15:48. Claimant was also dissatisfied with a verbal warning she received for a customer complaint about an incident that occurred when claimant was not at work. Claimant testified that the supervisor’s statements created a feeling of “uneasiness” at work, and that the fear of discipline was “uncomfortable at times.” Audio Record at 15:00 to 15:41. Claimant also experienced stomach symptoms she attributed to work-related stress.

Claimant failed to show that her work conditions created a situation of such gravity that she had no reasonable alternative but to leave work. To the extent claimant left work due to pressure to meet sales goals, claimant did not show that the employer’s expectations were unreasonable, or that her continued employment was contingent upon meeting those expectations. Claimant did not receive any warnings for failing to meet her sales goals, and claimant’s supervisor testified that claimant’s job was not in jeopardy when she quit. Audio Record at 25:48 to 26:01. Claimant was dissatisfied with her

supervisor's manner of communicating with her. However, the record does not show claimant's supervisor yelled, used foul language, called claimant names, or threatened claimant with physical harm. Although claimant felt pressure from the employer, she did not establish that the sales expectations or the supervisor's behavior was so egregious that no reasonable and prudent person would have continued working for her employer. Claimant was also dissatisfied with a warning for a customer complaint for which she was not responsible, but did not pursue the reasonable alternative of telling the employer she was absent from work that day. Moreover, although claimant was experiencing stomach symptoms she attributed to work stress, the record does not show that her work environment or medical condition was so severe as to leave her with no reasonable alternative but to quit work when she did.

We conclude claimant quit work without good cause. Thus, claimant is disqualified from the receipt of unemployment insurance benefits based on this work separation.

DECISION: Hearing Decision 14-UI-28310 is affirmed.

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

DATE of Service: December 23, 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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