

EMPLOYMENT APPEALS BOARD DECISION

2015-EAB-0009

Affirmed
Disqualification

PROCEDURAL HISTORY: On December 9, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 155655). Claimant filed a timely request for hearing. On January 7, 2015, ALJ Dorr conducted a hearing, and on January 8, 2015, issued Hearing Decision 15-UI-31505, affirming the Department's decision. On January 12, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Witco Inc., a provider of employment services, employed claimant as a job coach from August 1, 2014 to November 14, 2014. Claimant worked in the employer's Oregon division.

(2) The employer's employment handbook described a complaint process available to employees who believed they were being subjected to harassment by a coworker, including a supervisor. The first step was to "politely but firmly confront" the perpetrator, and if that was ineffective, the next step was to file a formal complaint with any person up the chain of command including the employer's chief executive officer. Transcript at 34-35. Shortly after hire, claimant acknowledged to the employer that she read and understood the employer's handbook.

(3) Claimant believed her supervisor often lost his temper at her and others and had "anger issues." Transcript at 10. However, prior to October 31, when the supervisor lost his temper with claimant, claimant "just ignore[d] it and brush[ed] it off." Transcript at 9. Claimant was aware that her supervisor was about to be promoted to director of the Oregon division in which role he no longer would directly supervise claimant.

(4) On October 31, 2014, claimant worked with her supervisor and two employer clients at a job site. The supervisor worked with them that evening because he had allowed another job coach to take the evening off. During the course of the shift, after the supervisor received a call regarding a problem at another job site, he reportedly ranted around claimant and the two clients about being taken advantage of

by job coaches, though not specifically claimant. The supervisor's angry outburst upset claimant but she did not confront him. The next day, she saw another job coach at a local Walmart and discussed the previous day's incident and her supervisor's "anger issues."

(5) The other job coach reported claimant's comment to the supervisor and on Sunday, November 2, the supervisor called claimant and confronted her about what had been reported to him because discussing such job issues in public was against employer policy. During the conversation, claimant became frustrated with the supervisor and informed him she was resigning on November 7. The following day, claimant notified the supervisor in writing that she was quitting on November 14 rather than November 7, which the supervisor agreed to.

(6) On November 14, 2014, claimant quit work because she decided she could no longer "deal" with her supervisor's "anger issues." Transcript at 6. Prior to quitting, claimant did not politely confront her supervisor about his occasional angry outbursts around her or file a formal complaint against him.

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

A claimant who leaves work voluntarily is disqualified from the receipt of benefits unless she (or he) 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 P2d 722 (2010). A claimant who quits work must show that no reasonable and prudent person would have continued to work for the employer for an additional period of time.

Claimant quit work when she did because she concluded she could no longer "deal" with her supervisor's "anger issues." However, quitting work was not the only choice available to her at that time. Claimant explained that the supervisor had "just stepped into the director's position" and so claimant could have delayed her resignation to determine if she continued to have regular contact with him, along with the resulting exposure to his reportedly temperamental personality such contact would bring, in his new position. Transcript at 15. Claimant also failed to show that she ever confronted her supervisor about his outbursts around her and explained that she did not take the next step and file a complaint against him because she "didn't want to...put a red flag on his new position" of director. *Id.* Objectively considered, claimant failed to show that no reasonable and prudent job coach in claimant's circumstances, exercising ordinary common sense and interested in maintaining her own employment rather than putting a "red flag" on her supervisor's position, would have exercised one of the other options available to her on and after November 2 and continued to work for the employer beyond November 14, 2014.

Claimant voluntarily left work without good cause and is disqualified from receiving unemployment insurance benefits until she has earned four times her weekly benefit amount from work in subject employment.

DECISION: Hearing Decision 15-UI-31505 is affirmed.

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

DATE of Service: February 24, 2015

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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