

## EMPLOYMENT APPEALS BOARD DECISION

2015-EAB-0012

*Affirmed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On November 6, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit work without good cause (decision # 142053). Claimant filed a timely request for hearing. On December 19, 2014, ALJ S. Lee conducted a hearing, and on December 22, 2014 issued Hearing Decision 14-UI-30757, concluding that claimant quit work with good cause. On January 9, 2015, the employer filed an application for review with the Employment Appeals Board (EAB).

EAB considered the entire hearing record. The employer failed to certify it provided a copy of its written argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). EAB therefore did not consider the argument when reaching this decision.

**FINDINGS OF FACT:** (1) Wild Rivers Motorlodge employed claimant from February 4 to September 27, 2014.

(2) Claimant lived and worked for the employer in Brookings, Oregon. She rented a room in the home of a coworker's daughter, Collette Zacharias. The employer paid claimant Oregon minimum wage for as many hours of work it had available, which averaged 20 per week.

(3) In late August 2014, Ms. Zacharias notified claimant that she was moving to Dallas, Oregon toward the end of September 2014, after which claimant could no longer rent the room in her home. Claimant searched for other housing within commuting distance of the employer, but was unable to secure other housing due to her low income, debt, and poor credit rating. Ms. Zacharias offered to allow claimant to move with her to Dallas, which was a six hour drive from Brookings. Claimant accepted the offer to avoid becoming homeless after Ms. Zacharias moved to Dallas.

(4) Claimant quit work to avoid becoming homeless.

**CONCLUSIONS AND REASONS:** We agree with the ALJ that claimant quit 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.

Claimant quit work to avoid becoming homeless after her current housing became unavailable, and she was unable to secure other housing due to her low income, debt, and poor credit rating. At hearing, the employer’s owner testified that employer may have been able to offer claimant temporary housing at its motor lodge and help her find permanent housing. Audio Record at 22:20. However, the owner admitted that the employer tried to avoid providing employees temporary housing because it was not a good business practice. Audio Record at 22:25. The owner further admitted that claimant quit work during its busy season, and did not dispute her testimony the employer rarely had empty rooms available for employees at its motor lodge. Audio Record at 21:50, 27:30. Nor does the record show the employer likely would have been successful in helping claimant find permanent housing given her low income, debt, and poor credit rating.

No reasonable and prudent person would have refused an offer of housing in Dallas based on the mere possibility that the employer might provide her temporary housing until she ultimately found permanent housing in or near Brookings despite her low income, debt, and poor credit rating. Given that it was impractical for claimant to commute from Dallas to work for the employer in Brookings, claimant had no reasonable alternative but to quit work. Claimant therefore quit work with good cause, and is not disqualified from receiving benefits based on her work separation from the employer.

**DECISION:** Hearing Decision 14-UI-30757 is affirmed.

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

**DATE of Service:** February 20, 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](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.

**Please help us improve our service by completing an online customer service survey.** To complete the survey, please go to <https://www.surveymonkey.com/s/5WQXNJH>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.