

**EMPLOYMENT APPEALS BOARD DECISION**  
**2015-EAB-0023**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On November 25, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 124639). Claimant filed a timely request for hearing. On December 26, 2014, ALJ M. Davis conducted a hearing, and on January 7, 2015 issued Hearing Decision 15-UI-31394, 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) GR Roguewood LLC employed claimant from July 18, 2014 to October 27, 2014 as director of operations.

(2) Claimant's workload increased due to the employer's efforts to increase sales. On or about October 22, 2014, claimant complained about his workload to another executive employee and stated, "Wouldn't it be funny if all the supervisors called in sick on Wednesday to prove a point?" Audio Record at 11:30 to 11:46. Claimant believed the employee would keep their conversation confidential. The employee told the employer's president about claimant's statement and alleged claimant had asked other executive employees to "walk out" from work. Audio Record at 21:18 to 21:42.

(3) On October 22, 2014, the employer's president asked claimant if he attempted to organize a walk out at work. Claimant denied the allegation. The employer suspended claimant from work while it conducted an investigation. The president spoke with a second employee who stated claimant had encouraged executive employees to stop working.

(4) On October 27, 2014, the president told claimant that to continue working for the employer, claimant would have to accept a non-executive position as an engineer for a reduced salary, and would have to limit his work hours to 40 hours per week, and attend stress management classes. Claimant was dissatisfied about the reduction in pay and also told the president he would not continue working unless the employer discharged the employee who reported his October 22, 2014 statement to the president. The employer refused to discharge the employee.

(5) On October 27, 2014, claimant quit work due to avoid a reduction in pay and working with the employee who told the employer he had tried to organize a “walk out” at work.

**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 he proves, by a preponderance of the evidence, that he had good cause for leaving work when he did. ORS 657.176(2)(c); *Young v. Employment Department*, 170 Or App 752, 13 P3d 1027 (2000). OAR 471-030-0038(5)(d) (August 3, 2011) provides that if an individual leaves work due to a reduction in the rate of pay, the individual has left work without good cause unless the newly reduced rate of pay is ten percent or more below the Department’s determination of the median rate of pay for similar work in the individual’s normal labor market area. However, OAR 471-030-0038(5)(d) applies only when the employer reduces the rate of pay for the position the individual holds, and not when an employee’s earnings are reduced as a result of transfer, demotion or reassignment. OAR 471-030-0038(5)(d)(A). Otherwise, “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 his employer for an additional period of time.

Claimant quit work, in part, to avoid a demotion from director of operations to an engineering position with a reduction in pay. In the present case, OAR 471-030-0038(5)(d) does not apply to claimant’s work separation because he quit work due to a reduction in the rate of pay as a result of a demotion from director of operations to engineer, and not a reduction in his rate of pay for the director of operations position. Claimant failed to show that the cost of working for the employer would have exceeded the remuneration he would have received. Nor did claimant otherwise show that no reasonable and prudent person would have continued to work for his employer for an additional period of time for a reduced salary. Absent such showings, we cannot find that claimant had no reasonable alternative but to quit work to avoid a demotion and reduction in pay. Claimant could have continued to work for the employer as an engineer.

Claimant quit work, in part, because he was unwilling to work with the employee who told the employer claimant had tried to cause a “walk out” at work. Because claimant was willing to work with the employee before the October 22, 2014 incident occurred, we infer claimant refused to work with the employee because of the employee’s actions on October 22. Giving the employer information about a proposed action that could harm the employer, even if given in confidence, is not abusive behavior. Moreover, the employer investigated the information, and another employee corroborated the first employee’s report. Viewed objectively, claimant failed to show that his coworker’s behavior created a situation of such gravity that no reasonable and prudent person would have chosen to continue working for the employer for an additional period of time.

We therefore conclude that claimant quit work without good cause, and that he is disqualified from receiving unemployment insurance benefits based on this work separation.

**DECISION:** Hearing Decision 15-UI-31394 is affirmed.

Tony Corcoran and J. S. Cromwell;  
Susan Rossiter, 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](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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