

EMPLOYMENT APPEALS BOARD DECISION

2015-EAB-0030

*Affirmed
Disqualification*

PROCEDURAL HISTORY: On December 9, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit work without good cause (decision # 100359). Claimant filed a timely request for hearing. On January 6, 2015, ALJ R. Davis conducted a hearing, and on January 8, 2015 issued Hearing Decision 15-UI-31542, affirming the Department's decision. On January 13, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Tri County Metropolitan employed claimant as a bus operator trainee from October 20 to November 6, 2014.

(2) The employer had a six week bus operator training program. The first two weeks focused on providing trainees the skills they needed to obtain a commercial driver license (CDL). The final four weeks focused on providing those who obtained a CDL the skills they needed to drive buses for the employer.

(3) During the first two weeks of training, experienced anxiety driving a bus despite his trainer's supervision. Although claimant's bus driving skills improved, his trainer indicated that he might not pass the training program.

(4) Claimant completed the written test to obtain a CDL, and was scheduled to take the driving test on November 7, 2014. Claimant believed he would pass the test. On November 6, 2014, however, claimant quit work because of the anxiety he experienced driving a bus, and to avoid a possible discharge at the end of his six week training period.

CONCLUSIONS AND REASONS: We agree with the Department and the ALJ that claimant quit 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). “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.

In the present case, claimant failed to show the anxiety he experienced driving a bus was so severe, and his discharge at the end of his six week training period so likely, that no reasonable and prudent person would have continued to work for his employer for an additional period of time. Rather than quit when he did, claimant had the reasonable alternative to take the CDL driving test, which he believed he would pass, continue the training program, and allow time for his anxiety to decrease, and his bus driving skills to improve. Claimant therefore quit work without good cause, and is disqualified from the receipt of benefits.

DECISION: Hearing Decision 15-UI-31542 is affirmed.

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

DATE of Service: March 27, 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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