

**EMPLOYMENT APPEALS BOARD DECISION**  
**2015-EAB-0085**

*Affirmed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On December 8, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 84008). Claimant filed a timely request for hearing. On January 21, 2015, ALJ Wyatt conducted a hearing, and on January 22, 2015, issued Hearing Decision 15-UI-32166, concluding that claimant voluntarily left work with good cause. On January 30, 2015, the employer filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT** (1) The Multnomah Education Service District employed claimant from January 6, 1997 to September 26, 2014, last as a public school kitchen manager.

(2) Claimant's adult son lives in Texas and is the father of three children, ages 9, 10 and 12. Claimant's son suffers from bipolar disorder and is under the care of a psychiatrist. In late July 2014, claimant's son came to Oregon to stay with claimant for several weeks in order to try to improve his mental condition. The visit was not a success, however, because claimant's son missed his children.

(3) In early September 2014, claimant's son was in the process of divorcing his wife. Claimant's children were badly affected by the divorce and two of them were hospitalized for brief periods for problems related to the divorce. Audio Recording at 12:37. Claimant's son was deeply depressed about the divorce and expressed suicidal thoughts to claimant. Claimant was concerned about her son's mental condition; she was worried that he might commit suicide or otherwise harm himself. She was also concerned about the wellbeing of her grandchildren. Claimant's son had no family members or friends in Texas who could provide him with help and support.

(4) During the weekend of September 20-21, 2014, claimant's son became extremely distressed, and claimant's fears for his safety increased. Claimant decided to quit her job to move to Texas and care for her son and grandchildren. On September 24, 2014 claimant submitted her written resignation to her employer, effective September 26, 2014.

(5) Claimant did not consider asking the employer for a leave of absence because she believed that her son and his family would require long-term care and assistance. Claimant also did not consider asking her son and grandchildren to live with her in Oregon. Claimant's grandchildren could not leave Texas under the terms of the custody agreement between claimant and his wife. Claimant mental condition had not improved when he visited his mother in Oregon in late July 2014.

(6) After quitting her job, claimant moved to Texas and began living with her son and grandchildren in their home. Claimant's presence has been a great benefit to the family.

**CONCLUSION AND REASONS:** We agree with the ALJ that claimant voluntarily left 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 her job to move to Texas to care for her mentally ill son, who was divorcing his wife, and her grandchildren, who were suffering from the effects of the divorce. Claimant demonstrated that the situation faced by her son and grandchildren was grave. Claimant's son had expressed suicidal thoughts to her, her grandchildren had been briefly hospitalized, and no friends or family other than claimant were available to provide help to claimant's son and grandchildren. Without assistance and support, claimant reasonably feared for her son's safety. The situation claimant faced left her no reasonable alternative but to quit her job. Given the extent and serious nature of her son's mental condition, a leave of absence would not have allowed claimant the time necessary to effectively assist her family in Texas. Moving her son and her grandchildren to Oregon was neither a possible nor a reasonable option. Claimant's grandchildren could not leave Texas, and claimant's son had become depressed when he had visited claimant for a few weeks without his children. Based on this record, we conclude that a reasonable and prudent person, who was confronted with the concerns for her family's safety and wellbeing with which claimant was confronted, would have no reasonable alternative but to quit work.<sup>1</sup>

Claimant had good cause for leaving her job and is not disqualified from the receipt of benefits based on this work separation.

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<sup>1</sup> We disagree with the ALJ's conclusion that claimant had good cause for leaving work because she had a "compelling family reason" to do so as provided by OAR 471-030-0038(5)(g). A "compelling family reason" is defined as the illness or disability of an individual's immediate family, and the "immediate family" includes only a spouse, domestic partner, parent and minor child under the age of 18. OAR 471-030-0038(1)(e)(B) and (f). The relative whose disability or illness caused claimant to quit her job – her adult son – is not a relative to whom the "compelling family reason" standard is applicable. We conclude, however, that claimant demonstrated that she had good cause for leaving work under the general standard as in ORS 657.176(2)(c) and OAR 471-030-0038(4).

**DECISION:** Hearing Decision 15-UI-32166 is affirmed.

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

**DATE of Service:** March 10, 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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