

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0355

Affirmed
Disqualification

PROCEDURAL HISTORY: On December 15, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant, but not for misconduct (decision # 72353). The employer filed a timely request for hearing. On February 6, 2014, ALJ Shoemake conducted a hearing in which the claimant did not participate, and issued Hearing Decision 15-UI-33117, concluding that claimant voluntarily left work without good cause. On February 10, 2015, claimant filed an application for review with the Employment Appeals Board (EAB). On February 19, 2015, EAB issued 2015-EAB-0129, reversing Hearing Decision 15-UI-33117, and remanding this matter for a new hearing and hearing decision. On March 9, 2015, ALJ Davis conducted a hearing, and on March 16, 2015 issued Hearing Decision 15-UI-35158, concluding that claimant voluntarily left work without good cause. On March 30, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

EAB considered claimant's written argument to the extent it was relevant and based on the hearing record. Claimant contends that, because the Department's administrative decision # 72353 concluded claimant was allowed benefits, the burden of proof is on the employer in this matter, and it was not met. However, the ALJ is not bound by the Department's characterization of the nature of the job separation. As a result of the March 9, 2015 hearing, the ALJ concluded that claimant voluntarily left work without good cause. As the ALJ correctly indicated in her decision, the burden of persuasion is on the claimant to establish good cause for quitting. *Brotherton v Morgan*, 17 Or App 435 (1974). Page 3 of Hearing Decision 15-UI-35158. We agree with the ALJ that claimant failed to carry this burden.

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), the hearing decision under review is **adopted**.

DECISION: Hearing Decision 15-UI-35158 is affirmed.

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

DATE of Service: April 1, 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 Court of Appeals website at courts.oregon.gov. Once on the website, use the 'search' function to search for 'petition for judicial review employment appeals board'. A link to the forms and information will be among the search results.

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