

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0414

Affirmed
Disqualification

PROCEDURAL HISTORY: On March 9, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 140215). Claimant filed a timely request for hearing. On April 2, 2015, ALJ Clink conducted a hearing, and on April 10, 2015 issued Hearing Decision 15-UI-36660, affirming the Department's decision. On April 14, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

We considered claimant's written argument to the extent it was based on the hearing record, and the entire hearing record.

FINDINGS OF FACT: (1) Nuscale Power LLC employed claimant from June 23, 2014 to January 16, 2015 as a quality assurance manager.

(2) Claimant's job duties included managing quality assurance for a nuclear test facility to ensure it successfully completed design certification testing. The employer originally planned to have the test facility ready for testing by February 15, 2015. Claimant was also responsible for resolving quality assurance problems that arose when a prior test facility at the same site was dismantled.

(3) Claimant worked more than 40 hours per week, and worked late and on weekends due to her workload. She earned an annual salary of \$125,000. Working on the project with claimant was a facilities manager, two technicians, and several university students. Claimant considered the project to be understaffed. Claimant also considered the project to be poorly managed because the employer did not have a schedule or project management in place to coordinate between claimant's employer and the multiple participants in the project. Exhibit 2.

(4) On October 9, 2014, claimant complained to the employer about her workload and the planned testing date. On October 31, 2014, claimant gave the employer a letter of resignation, but agreed to continue working when the employer agreed to work with its suppliers and human resources to find funding to hire two additional quality assurance employees. Exhibit 2.

(5) In December 2014, claimant complained to the employer because it had not provided additional quality assurance personnel. The employer told claimant it had discussed her concerns with human resources and would be providing assistance. Later in December, claimant contacted human resources and was told that the employer was not then hiring new quality assurance personnel.

(6) Later in December, the employer told claimant that she should find her own resources for assistance with the project. In January 2015, claimant found a candidate for a quality assurance assistant. On January 5, 2015, the project manager told claimant to freeze the hiring process because claimant had allegedly not followed proper hiring procedures. On January 8, 2015, the project manager told claimant the new employee would have to be employed by the employer, and not by the university where the test facility was located. Claimant felt the new position could not meet the program needs if it the person were employed by the employer rather than the university. Exhibit 1.

(7) The employer never disciplined claimant or threatened to discharge her.

(8) On January 9, 2015, claimant gave the employer notice she would quit work on January 16, 2015 because the employer did not supply additional employees to assist with quality assurance duties.

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 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).¹ The standard is objective. *McDowell v. Employment Department*, 348 Or 605, 612, 236 P2d 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 because the employer did not provide additional staff to assist claimant with completing the workload necessary for the test facility to be ready for testing by February 15, 2015. Claimant failed to show that her working conditions were so grave that no reasonable and prudent person would have continued to work for the employer for an additional period of time without the additional staff she requested. Claimant was dissatisfied with how the employer staffed and managed the facility, but the record does not show the working conditions affected claimant’s health or safety, or otherwise created a grave situation for claimant. Claimant worked long hours, however, the record does not show the employer was unwilling to allow claimant to take time off from work to address work fatigue, if she needed to do so. Claimant was concerned about meeting the February 15, 2015 deadline, and contended in her Written Argument that she would have suffered damage to her reputation had she been discharged by the employer for failure to meet the deadline. Claimant’s Written Argument. The

¹ Claimant argued, incorrectly, that the ALJ erred by failing to apply OAR 471-030-0038(5)(b). Claimant’s Written Argument. That section applies only where a case involves the specific factual scenarios addressed by that section; this case presents none of those scenarios. The ALJ therefore correctly applied section (4) of OAR 471-030-0038.

record does not show the employer was dissatisfied with claimant's work, or that the employer would discharge or otherwise discipline claimant if the facility was not ready for testing by February 15. Nor does the record contain evidence of potential harm to claimant's reputation if the test facility was not ready by February 15, or if claimant was discharged for that failure. Thus, not only did claimant fail to show she faced discharge if she were to continue working without additional staff or failed to meet the February 15 deadline, she did not meet her burden to prove she would face a grave situation if discharged.

We therefore conclude that claimant quit work without good cause, and that she is disqualified from receiving benefits based on her work separation from the employer.

DECISION: Hearing Decision 15-UI-36660 is affirmed.

Susan Rossiter and D. H. Hettle, *pro tempore*;
J. S. Cromwell, not participating.

DATE of Service: June 5, 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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