

**EMPLOYMENT APPEALS BOARD DECISION**  
**2015-EAB-0475**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On March 23, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 144439). Claimant filed a timely request for hearing. On April 15, 2015 ALJ Frank conducted a hearing, and on April 23, 2015 issued Hearing Decision 15-UI-37395, affirming the Department's decision. On April 27, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Lombard Animal Hospital employed claimant as a veterinary technician from November 22, 2013 until February 4, 2015.

(2) Sometime before November 2014, claimant began working with a particular veterinarian with whom she disliked working. Claimant thought that the veterinarian had difficulties in clearly communicating instructions to the technicians, did not clarify what she wanted and sometimes gave inconsistent directions. Claimant was frustrated on an ongoing basis with this veterinarian.

(3) Beginning in November 2014, claimant did not want to report to work because of her dissatisfactions with the veterinarian. Sometimes before she reported for work or during the work day, claimant had symptoms that she attributed to panic attacks, including an increased heart rate and increased respiration. At this time, claimant did not see a physician to treat the symptoms. Claimant did not tell the employer that she was experiencing panic attacks. Claimant never needed to miss work or leave work early because of any perceived panic attacks.

(4) On January 6, 2015, two of the employer's veterinarians met with claimant as part of her annual performance evaluation. Claimant received a positive evaluation in which her performance was generally rated as exceeding requirements and on very few criteria was rated as meeting requirements. Audio at ~30:34; Exhibit 1 at 18. At this meeting, for the first time, claimant brought up her difficulties working with the veterinarian. Claimant said she disliked the lack of clarity and inconsistency in the veterinarian's communications and instructions. The two veterinarians told claimant that they were

willing to speak with the one veterinarian about the “breakdown” in her communications, learn the veterinarian’s views on the matter and try to facilitate a better communication between the veterinarian and claimant. Audio at ~32:32; Exhibit 1 at 19. Claimant also mentioned that work was causing her “some anxiety.” Audio at ~33:19. Claimant did not state that she was experiencing panic attacks, either at home or at work. Audio at ~33:05.

(5) On January 26, 2015, claimant consulted with a primary care physician to evaluate, among other things, the available treatments for the symptoms she believed she was experiencing in the workplace. Claimant was referred to family medicine practice for further evaluation, which was scheduled for February 9, 2015.

(6) On February 2, 2015, claimant sent the employer as an email attachment a letter stating the she was resigning from work effective February 6, 2015. Exhibit 1 at 14. In the email to which the letter was attached, claimant set out specific examples of her frustrations with the one veterinarian. Claimant stated that those frustrations had culminated in her decision that “for health reasons, I need to resign from my position.” Exhibit 1 at 16. Before submitting her resignation, claimant did not tell the employer that she was having panic attacks and did not refer to any anxiety she was experiencing other than her one comment on January 6, 2015. Claimant also did not ask the employer for any workplace adjustments or accommodations to reduce the stress that she perceived nor for a leave of absence to allow her to receive treatment for the symptoms she attributed to the workplace environment.

(7) Sometime between February 2 and February 4, 2015, claimant and the employer agreed that her last working day would be February 4, 2015. On February 4, 2015, claimant voluntarily left work.

(8) On February 9, 2015, claimant saw the medical provider for further evaluation of her symptoms. The provider referred claimant to a therapist for treatment and ultimately prescribed an anti-anxiety medicine for her. In a letter prepared on February 26, 2015, approximately three weeks after claimant left work, the provider stated that claimant was “struggling with anxiety” and that claimant needed to try to “amend the stress at her current workplace.” Exhibit 1 at 5.

**CONCLUSIONS AND REASONS:** 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). The standard is objective. *McDowell v. Employment Department*, 348 Or 605, 612, 236 P2d 722 (2010). Although it was not clear from claimant’s testimony that she was experiencing a long-lived, recognized anxiety condition at the time of the work separation, it is assumed for purposes of this decision that she was, and that condition constituted a permanent or long-term “physical or mental impairment” as defined at 29 CFR §1630.2(h). A claimant with such impairment who quits work must show that no reasonable and prudent person with the characteristics and qualities of an individual with such impairment would have continued to work for her employer for an additional period of time.

While claimant repeatedly asserted at hearing that she left work because of the stress, panic attacks and anxiety that she experienced as a result of working with one of the employer's veterinarians, she presented little evidence suggesting that her circumstances were grave. The examples that claimant gave of the veterinarian's allegedly stress-inducing behavior were not of hostile, aggressive or abusive behavior but a lack of consistency in the veterinarian's communications, and that sometimes claimant needed to hurry her work up as a result of the veterinarian's ineffective communications. Audio at ~22:42, ~24:08. Claimant never complained to the employer about her perceived symptoms, other than mentioning once that she felt "some anxiety" at work, which tends to suggest that the symptoms were not intolerable and did not gravely affect her ability to work or to function. Audio at ~33:19. In addition, also militating against the severity of the symptoms that claimant alleged, claimant did not seek any medical intervention until immediately before she decided to leave work and then quit before she had the follow-up evaluation necessary to formulate a treatment plan. While claimant testified that she was unable to recall why she decided to submit a resignation on February 2, 2015 other than she thought she must have had a recent "bad day" working with the veterinarian, it is implausible that she would have no recollection of a work situation that had such critical impact that it motivated her to leave work. Audio at ~25:04, ~25:51, ~26:31. Claimant's testimony revealed that she had been able to work with the symptoms she attributed to anxiety since November 2014. Without precipitating events of some magnitude or some rapid intensification in claimant's alleged anxiety symptoms, to which she did not allude, it is difficult to conclude that objectively grave reasons motivated claimant to submit her resignation on February 2, 2015.

Even if claimant considered working with the veterinarian to have been a grave circumstance, she did not take the actions of a reasonable and prudent person to try to resolve those circumstances before deciding to quit work. While on one occasion, during the January 6, 2015 meeting, claimant alluded vaguely and generally to her "anxiety," it does not appear that she informed the two veterinarians of the specifics of it, or the magnitude of its effects on her. Claimant did not supply enough information to the employer to reasonably motivate it to take steps to address her concerns or to think she was referring other than to ordinary workplace strains and pressures. While claimant finally sought a consultation with a health care provider to evaluate her anxiety a few days before submitting her resignation, she did not wait to determine whether her symptoms could be ameliorated in the short-term without needing to leave work. Claimant also did not seek a leave of absence from the employer, in lieu of quitting work, for a reasonable period of time to determine if, after treatment, the severity of her symptoms would sufficiently lessen to allow her to return to work. Although claimant had consulted with a physician before she decided to leave work, she did not request a workplace accommodation from the employer that might have reduced the stress on her and concomitantly lessened the anxiety symptoms that she experienced. A reasonable and prudent employee with an anxiety condition, exercising ordinary common sense, would have taken one or a combination of these reasonable steps and determined that they did not successfully reduce her anxiety symptoms to a tolerable level before concluding that she needed to leave work.

Claimant did not show good cause for leaving work when she did. Claimant is disqualified from receiving unemployment insurance benefits.

**DECISION:** Hearing Decision 15-UI-37395 is affirmed.

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

**DATE of Service: June 22, 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](http://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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