

**EMPLOYMENT APPEALS BOARD DECISION**  
**2015-EAB-0477**

*Reversed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On March 13, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 140204). Claimant filed a timely request for hearing. On April 17, 2015, ALJ S. Lee conducted a hearing, and issued Hearing Decision 15-UI-37121, affirming the administrative decision. On April 27, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Kaiser Foundation Hospitals employed claimant as a unit specialist from July 14, 2010 to February 2, 2015.

(2) At the time of claimant's work separation from the employer, claimant's grandmother, who is legally blind, was 86. Claimant's grandmother lives with her son, claimant's father in Christmas Valley, Oregon. Claimant's father cared for his mother during the day, but was unable to do so at night. In October 2014, claimant's grandmother fell during the night.

(3) Claimant's family determined that claimant's father needed assistance in caring for his mother. Because claimant's parents are divorced, her mother could not care for claimant's grandmother. It was impractical for claimant's married siblings, who live with their families in Redmond, Oregon, a distance of approximately 121 miles from Christmas Valley, to move to Christmas Valley or attempt to provide regular care for their grandmother. No relative other than claimant was available to move to Christmas Valley and care for claimant's grandmother. Claimant's father, who suffers from Post-Traumatic Stress Disorder, could not afford to pay for a caregiver for his mother. In addition, his mother is very suspicious of strangers and is fearful that people will steal from her.

(4) Claimant worked for the employer at a facility in Portland, a distance of approximately 287 miles from Christmas Valley.<sup>1</sup> The employer did not have a facility within commuting distance of Christmas Valley to which claimant could have transferred.

(5) Claimant did not ask the employer for a leave of absence because she did not know how long her grandmother would require care.

(6) On January 15, 2015, claimant submitted her written resignation to the employer, effective February 2, 2015. Claimant then moved to Christmas Valley a day or two after her last day of work.

**CONCLUSION AND REASONS:** We disagree with the ALJ and conclude 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 his employer for an additional period of time.

Claimant quit her job to move Christmas Valley to care for her elderly grandmother. Claimant demonstrated that the situation she and her family faced was grave. Her grandmother, who was legally blind, required care at night, which no other family member was able to provide. Even if the family was able to afford in-home care for the grandmother, which it was not, it appeared unlikely that the grandmother would accept a person unfamiliar to her in her home. Approximately three months before claimant quit her job, her grandmother had fallen during the night. Claimant’s fears for her grandmother’s safety and wellbeing were reasonable, and the situation she faced left her no reasonable alternative but to quit her job. Because claimant did not know how long her grandmother would require care, requesting a leave of absence from the employer was not a plausible solution. Based on this record, we conclude that a reasonable and prudent person, who was confronted with the concerns about her grandmother with which claimant was confronted, would have no reasonable alternative but to quit work.

The ALJ, however, concluded that claimant did not demonstrate good cause for voluntarily leaving her job because she “failed to show that she faced such a grave situation *at work* that she had no reasonable alternative but to quit.” Hearing Decision 15-UI-37121 at 5. The ALJ misinterpreted the provisions of the applicable law and rule, ORS 657.176(2)(c) and OAR 471-030-0038(4). Contrary to the ALJ’s assertion, a grave situation that may create good cause for quitting a job is not restricted only to work-

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<sup>1</sup> We take official notice of the generally cognizable fact that the driving distance between Christmas Valley and Redmond is 121 miles, and that the driving distance between Portland and Christmas Valley is 187 miles. Any party that objects to our doing so must submit its objections to this office in writing, setting for the basis of the objection, within 10 days of the date on which this decision is mailed. OAR 471-041-0090(3) (October 29, 2006). Unless such an objection is received, the noticed fact will remain part of the record.

related issues a claimant may face. We have repeatedly held that a claimant's need to move in order to provide or arrange for care for a family member can be a grave situation that creates good cause for a claimant to voluntarily leave work. *See, e.g.*, Appeals Board Decision 2014-EAB-0085, (March 10, 2015) (claimant's need to move to Texas to care for her mentally ill son and her grandchildren was a grave situation giving claimant had good cause to quit her job); Appeals Board Decision 2014-EAB-1831 (January 12, 2015) (claimant's need to move to Alaska to care for a brother suffering from cancer was a grave situation giving claimant good cause to quit his job); and Appeals Board Decision 2014-EAB-0817 (June 20, 2014) (claimant's need to move out-of-state so her husband could receive necessary care was a grave situation giving claimant good cause to quit her job).

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

**DECISION:** Hearing Decision 15-UI-37121 is set aside, as outlined above.

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

**DATE of Service: June 18, 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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