

**EMPLOYMENT APPEALS BOARD DECISION**  
**2015-EAB-0511**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On March 25, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 81006). Claimant filed a timely request for hearing. On April 16, 2015, ALJ Seideman conducted a hearing, and on April 23, 2015, issued Hearing Decision 15-UI-37424, affirming the administrative decision. On May 4, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant's written argument contained information that was not part of the hearing record, and failed to show that factors or circumstances beyond claimant's reasonable control prevented claimant from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (October 29, 2006), we considered only information received into evidence at the hearing when reaching this decision.

**FINDINGS OF FACT:** (1) Freelin Wade employed claimant from October 4, 1989 until March 2, 2015, last as a trainee for an inventory control position. The employer manufactures plastic tubing.

(2) Until sometime in January 2015, claimant was one of three employees performing quality control work for the employer. The employer paid claimant \$19.10 per hour for this work. Because the employer implemented a number of efficiencies in its manufacturing process, it needed only two employees in quality control and eliminated claimant's position. The employer then placed claimant in a six week program to train her for a position in inventory control. The audit portion of the training program was difficult for claimant, but she was eventually able to master this portion of the training and learn all other skills needed for the new inventory control position.

(3) On February 26, 2015, after claimant had completed the training program, the employer's training and human resources manager offered claimant an inventory control position at a wage of \$15.30 per hour. The wage for the inventory control position ranged from \$14.28 to \$18.81 per hour; the wage offered claimant was the wage paid to an employee with one year of experience in inventory control.

The employer believed that claimant was entitled to a higher wage because of her many years of experience working for the employer.

(4) On February 27, 2015, claimant spoke with the training and human resources manager. She asked the manager if she would be paid for the 245 hours of vacation time she had accumulated while working in quality control at the rate of \$19.10 per hour. The manager said that claimant would be paid for her accumulated vacation time at the pay rate offered for the new position, \$15.30 per hour. Claimant also asked for a pay rate of \$17.50 per hour for the inventory control position, but the human resources manager responded that she was offering claimant no more than \$15.30 per hour.

(5) On March 2, 2015, claimant told the human resources manager that she would not accept the inventory control position and voluntarily left work. Claimant believed that the employer had treated her unfairly by offering her a position that resulted in a substantial reduction in her rate of pay.

**CONCLUSION AND REASONS:** We agree with the ALJ and conclude that claimant voluntarily left work without good cause.

A claimant who leaves work voluntarily is disqualified from the receipt of benefits unless he proves, by a preponderance of the evidence, that he had good cause for leaving work when he did. ORS 657.176(2)(c); *Young v. Employment Department*, 170 Or App 752, 13 P3d 1027 (2000). OAR 471-030-0038(5)(d) (August 3, 2011) provides that if an individual leaves work due to a reduction in the rate of pay, the individual has left work without good cause unless the newly reduced rate of pay is ten percent or more below the Department's determination of the median rate of pay for similar work in the individual's normal labor market area. However, OAR 471-030-0038(5)(d) applies only when the employer reduces the rate of pay for the position the individual holds, and not when an employee's earnings are reduced as a result of transfer, demotion or reassignment. OAR 471-030-0038(5)(d)(A). Otherwise, "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 voluntarily left work because she felt the employer treated her unfairly by offering her a job that paid substantially less than the work she had previously performed for the employer. OAR 471-030-0038(5)(d) does not apply to claimant's work separation because she quit work due to a reduction in the rate of pay that resulted from a transfer or demotion. Claimant understandably felt that after 25 years of experience working for the employer, she did not deserve a significant reduction in her rate of pay. Claimant failed to show that the cost of working for the employer exceeded the remuneration she would receive in his new job, however. Although it is also understandable that claimant was upset about the substantial loss in income she would experience if she accepted the inventory control position, her decision to voluntarily leave work left her with no income. For these reasons, we find that claimant failed to demonstrate that no reasonable and prudent person would have refused to continue working for the employer for an additional period of time for a reduced wage. We therefore conclude that claimant failed to meet her burden to show that the employer's offer of the new job left her with no reasonable alternative but to voluntarily leave work.

Claimant voluntarily left work without good cause and is disqualified from the receipt of unemployment benefits on the basis of this work separation.

**DECISION:** Hearing Decision 15-UI-37424 is affirmed.

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

**DATE of Service: June 19, 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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