

**EMPLOYMENT APPEALS BOARD DECISION**  
**2015-EAB-0689**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On April 10, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work with good cause (decision #85210). The employer filed a timely request for hearing. On May 12, 2015, ALJ Shoemake conducted a hearing, and on May 15, 2015, issued Hearing Decision 15-UI-38601, concluding that claimant voluntarily left work without good cause. On June 4, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Securitas Security Services employed claimant as a security officer from November 5, 2014 until March 5, 2015. The employer paid claimant \$10 per hour for his work.

(2) The employer's policy required that a security officer could not continue working for the employer if the employee accepted a position with another security services business. Claimant knew and understood the policy, because he received a copy of it when he was hired.

(3) Claimant worked full-time for the employer until the first week of January, 2015. Sometime during that week, he asked that the employer allow him to work part-time for no more than 8 hours per week. The employer granted claimant's request, and claimant began working part-time for the employer, earning approximately \$80 per week.

(4) On March 5, 2015, another security services business offered claimant a position as a security officer. At the time claimant was offered this job, the date on which claimant would begin work for the new employer as well as the wage he would be paid was uncertain.

(5) Also on March 5, 2015, claimant contacted his manager and explained that he had been offered a job with another security services business, although he was not sure when he would actually begin

working for the new employer. Claimant's manager told claimant he could not continue working for the employer now that he had accepted the new job. Claimant then quit his job for the employer.

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

We begin our analysis by determining the nature of claimant's work separation. If the employee could have continued to work for the same employer for an additional period of time, the work separation is a voluntary leaving. OAR 471-030-0038(2)(a) (August 3, 2011). If the employee is willing to continue to work for the same employer for an additional period of time but is not allowed to do so by the employer, the separation is a discharge. OAR 471-030-0038(2)(b).

The employer had continuing work available for claimant on the condition that claimant work only for the employer and not accept employment with another security services firm. Claimant chose not to accept this condition and continue working for the employer. Claimant was therefore the moving party in severing the employment relationship and the separation was a voluntary leaving.

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). If an individual quits a job to accept an offer of other work, the individual has good cause for leaving only if the offer of work is definite and will begin in the shortest length of time possible under the circumstances. In addition, the new job must pay either an amount equal to or in excess of the weekly benefit amount or an amount greater than the work left. OAR 471-030-0038(5)(a) (August 3, 2011).

Here, claimant left his work for the employer to accept a job with another security services business. Claimant did not know when he would begin work for the new employer or how much he would be paid. Claimant therefore failed to meet his burden to demonstrate that the new job would begin in the shortest length of time possible, or that the work would pay an amount at least equal to his weekly benefit amount or an amount greater than the job he left.

Claimant voluntarily left work for the employer without good cause. He is disqualified from the receipt of unemployment benefits based on this work separation.

**DECISION:** Hearing Decision 15-UI-38601 is affirmed.

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

**DATE of Service:** July 27, 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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