

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0892

Affirmed
Disqualification

PROCEDURAL HISTORY: On June 2, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct (decision # 112303). Claimant filed a timely request for hearing. On July 7, 2015, ALJ M. Davis conducted a hearing, and on July 8, 2015 issued Hearing Decision 15-UI-41217, affirming the Department's decision. On July 27, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

In written argument, as at hearing, claimant argued that she quit work, resigning to avoid being discharged for failing to maintain her driver's license. However, claimant failed to certify that she provided a copy of her written argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). EAB therefore did not consider claimant's written argument when reaching this decision. Furthermore, even we did conclude that claimant quit work to avoid being discharged, we nevertheless would conclude that she is disqualified from the receipt of benefits. A claimant who quits work is disqualified from the receipt of benefits unless she proves, by a preponderance of the evidence, that she had good cause to quit work when she did. ORS 657.176(2)(c); *Young v. Employment Department*, 170 Or App 752, 13 P3d 1027 (2000). Quitting work without good cause includes resignation to avoid what would otherwise be a discharge for misconduct or potential discharge for misconduct. OAR 471-030-0038(5)(b)(F) (August 3, 2011). We agree with the ALJ's conclusion that claimant's failure to maintain her driver's license was misconduct. Thus, even if we concluded that claimant quit work to avoid being discharged for failing to maintain her license, we would conclude that she quit work without good cause under OAR 471-030-0038(5)(b)(F).

DECISION: Hearing Decision 15-UI-41217 is affirmed.

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

DATE of Service: July 28, 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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