

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-1083

Affirmed
Disqualification

PROCEDURAL HISTORY: On July 30, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 144329). Claimant filed a timely request for hearing. On September 2, 2015, ALJ Frank conducted a hearing in which the employer did not participate, and on September 4, 2015, issued Hearing Decision 15-UI-43969, affirming the administrative decision. On September 14, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

EAB considered claimant's written argument to the extent it was relevant and based on the hearing record.

FINDINGS OF FACT: (1) The Friends of Estacada Community Center employed claimant from April 15, 2010 to May 31, 2015, last as client coordinator.

(2) From April 15, 2010 until August 4, 2015, claimant worked 20 to 25 hours per week for the employer as client coordinator. On August 4, 2015, the employer appointed claimant acting director.

(3) As acting director, claimant worked 60 to 70 hours a week. Claimant had many diverse job responsibilities, such as fund raising and preparing meals for large groups. Claimant experienced a "horrendous" level of stress on account of this work, and developed back problems because of the heavy pans she was required to lift when she prepared meals. Audio recording at 22:27 and 31:30. Claimant also had high blood pressure and was unable to have needed dental surgery because of this condition. Audio recording at 24:04.

(4) On or about May 15, 2015, the employer hired a permanent director and claimant returned to her position as client coordinator. On May 27, 2015, the new director told claimant that on June 1, her work hours would be reduced to 10 per week. The director asked that claimant try this new work schedule for “a couple of months.” Audio recording at 28:56. Claimant was concerned about the reduction in hours because she believed she would not have sufficient time to adequately serve her clients and complete required forms, and also believed that she would experience a high level of stress in attempting to perform her job duties.

(5) On Sunday, May 31, 2015, claimant attended a barbeque dinner the employer hosted to show appreciation to its volunteers. After dinner, claimant talked with the board chair and asked that her work hours not be reduced. The board chair responded that it was the director’s decision and he supported it. Claimant then gave the director her keys, telling him that she was quitting because she could not perform the duties of the client coordinator position within the 10 hours per week she would be authorized to work.

CONCLUSION AND REASONS: We agree with the ALJ. We conclude that 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 P3d 722 (2010). A claimant who quits work must show that no reasonable and prudent person would have continued to work for her employer for an additional period of time. Claimant had high blood pressure, a permanent or long-term “physical or mental impairment” as defined in 29 CFR §1630.2(h).¹ A claimant with that 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.

Claimant quit her job on May 31, 2015 because she anticipated she would be unable to adequately perform her duties as client coordinator when the employer reduced her work hours to 10 per week on June 1, 2015. Claimant was particularly concerned that she would experience a high level of stress in attempting to fulfill job responsibilities that could not reasonably be fulfilled during a 10 hour work week. By presenting un rebutted evidence² that she was going to be assigned a job that was, at a minimum, difficult to perform, and one that was likely to increase her stress and thereby exacerbate her high blood pressure, claimant demonstrated that she faced a grave situation. Claimant failed to show that she had no reasonable alternative but to leave work when she did, however. Claimant could have

¹ Claimant testified that she developed back problems during the ten and one-half months she worked as acting director. She presented insufficient evidence regarding these problems for us to conclude that it was a permanent or long-term physical impairment under 29 CFR §1630.2(h).

² We note that the employer did not participate in the hearing.

presented concerns about her job duties and reduced hours to the employer's board at a meeting or other business setting, or in a letter. Claimant's conversation with the board chair at a weekend social event was not the most appropriate method of challenging the director's decision to reduce her work hours. Claimant could have presented the employer with medical documentation of her high blood pressure and requested that the employer provide an accommodation. Finally, claimant could have accepted the director's invitation to try the new schedule to determine if it truly was unworkable or excessively stressful.

Claimant argued, however, she had no reasonable alternative to quitting her job because the employer would not accommodate her. Claimant asserted that that "despite her requests for relief from the stressful workload, nothing was done." Written Argument at 5. There is no evidence in the record, however, that claimant ever provided the employer with medical documentation of any health problems she was experiencing and asked for an appropriate accommodation. In addition, although claimant repeatedly asserted that the employer's board denied her assistance during the ten and one-half months she worked as acting director, she provided no evidence of specific requests for particular types of assistance that the board denied. Based on this record, we find no objective evidence that the employer was unwilling to accommodate claimant's health conditions. We conclude that a reasonable and prudent person suffering from high blood pressure would have pursued reasonable alternatives – bringing her concerns to the employer's board, requesting an accommodation for her medical condition, or trying out the new work schedule – before quitting her job.

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

DECISION: Hearing Decision 15-UI-43969 is affirmed.

Susan Rossiter and J. S. Cromwell

DATE of Service: October 2, 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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