

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-1243

Affirmed
Disqualification

PROCEDURAL HISTORY: On August 27, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 163353). Claimant filed a timely request for hearing. On September 29, 2015, ALJ M. Davis conducted a hearing, and on September 30, 2015 issued Hearing Decision 15-UI-45144, concluding affirming the Department's decision. On October 19, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant submitted a written argument to EAB that was comprised of copies of emails she exchanged with the employer around the time she resigned. Claimant failed to certify that she provided a copy of the argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). The argument also contained information that was not part of the hearing record, and claimant did not show that factors or circumstances beyond her reasonable control prevented her from offering the information during the hearing as required by OAR 471-041-0090 (October 29, 2006). For these reasons, EAB did not consider claimant's written argument. EAB considered only information received into evidence at the hearing when reaching this decision. *See* ORS 657.275(2).

FINDINGS OF FACT: (1) Quantum Distributors, Inc. employed claimant from October 1, 2011 until July 17, 2015, last as a customer service associate.

(2) In late April 2015, an employee who performed purchasing duties for the employer unexpectedly left his employment. At around the same time, an employee who answered phones for the employer was laid off and her position was eliminated. The job duties of both employees were divided up and assigned to various remaining employees. In addition to her regular job duties, claimant was temporarily assigned some purchasing responsibilities until a new employee was hired and permanently assigned some of the phone answering responsibilities of the laid off employee.

(3) Beginning in late April 2015, the employer began to actively recruit to find a replacement for the employee in purchasing who had departed. Claimant understood that the purchasing responsibilities she had been assigned were temporary, and she would be relieved of them when a new employee was hired.

(4) After she assumed the new duties, claimant felt overwhelmed. Claimant did not know how to perform the purchasing duties or how to use the employer's specialized software programs for purchases. Claimant asked her supervisor, the director of operations, for advice when she did not know how to accomplish purchasing tasks and he told her he did not know how to perform those tasks. Because the employee responsible for purchasing had left, there was no knowledgeable person available to give claimant guidance. Claimant asked the director of operations to allow her to attend trainings on the use of the employer's purchasing software. The director told her "that's not in the budget, "you're not going to be doing it [the purchasing duties] for that long, so I'm not going to pay for training" and "[you] just need to figure it out." Audio at ~12:09, ~12:20. On a few occasions, claimant asked the director of operations when the employer was going to hire the new employee and her temporary duties in purchasing would be over, but the director was unable to give her a specific date. While claimant felt overwhelmed by the additional duties that she had been assigned, she never worked over forty hours per week. Audio at ~18:30.

(5) Sometime in approximately May 2015, claimant became frustrated because the director of operations was not giving her the training or support she thought she needed to capably perform the purchasing duties. Claimant met with the employer's chief executive officer (CEO) to ask him for assistance with the purchasing tasks. Claimant thought that the CEO did not provide any useful solutions. Although claimant made some errors when performed purchasing tasks due to her lack of experience, the employer did not issue any disciplinary warnings to her. Audio at ~10:55. When claimant made errors, the accounting department was able to correct them. Audio at ~10:45.

(6) By the end of May 2015, claimant was still upset that the director of operations was not giving her the assistance and support she thought she should have. On May 26, 2015, claimant submitted a resignation to the employer's vice-president for human resources, stating that she was overwhelmed by job and frustrated by the lack of support she had received from the director of operations. Claimant's resignation did not specify the last day she was going to work. On May 27, 2015, the vice-president met with claimant and assured claimant that her job duties in purchasing were temporary only and would terminate when the new employee in purchasing was hired. The vice-president also told claimant that, with the phone answering duties she had assumed from the laid off employee, she would not work over forty hours per week. Claimant did not retract her resignation. Later, after some discussion with the vice-president, claimant agreed to stay until her own replacement was trained.

(7) On July 17, 2015, claimant voluntarily left work because her replacement had been hired and she thought he was adequately trained.

CONCLUSIONS AND REASONS: 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 his employer for an additional period of time.

Claimant contended that she submitted her resignation when she did because of the stress she experienced in trying to perform the purchasing duties that had been temporarily assigned to her without adequate support from the director of operations or the employer's CEO. Audio at ~12:57. While claimant may have felt adrift in trying to perform work with which she was unfamiliar and when there was no one knowledgeable to guide her, claimant did not dispute that she never worked more than forty hours per week, or spent any overtime before she was able to accomplish those tasks. Moreover, as claimant described the situation, the director of operations was aware of her insecurity in performing purchasing tasks, and did not penalize or apparently criticize her for any errors she made as a result of her lack of experience. Audio at ~10:55, ~11:35. As well, although the director of operations was unable to give her a definitive date by which she would be relieved of all purchasing duties, the employer was advertising and actively recruiting for a new employee to take over the purchasing duties, and claimant did not contend that she thought the employer was unreasonably delaying its efforts to hire the new employee or that she thought the employer had assigned the purchasing duties to her other than temporarily. Claimant also did not present any evidence that she was unusually susceptible to stress or that the stress she contended she experienced in the workplace harmed her in any appreciable way. On these facts, a reasonable and prudent employee of normal sensitivities, exercising ordinary common sense, would have not concluded that being temporarily assigned specialized duties with which she was unfamiliar that did not require her to work excessively, and when no adverse work repercussions occurred if she made errors due to lack of experience, was a grave reason to leave work. Rather, a reasonable and prudent employee would have concluded that the employer was simply trying to re-allocate work in the short-term, as best it could, to allow it to continue operations until a new employee was hired and would have reasonably been aware that any discomfort or trepidation she experienced when confronting those unfamiliar tasks was going to be short-lived.

Claimant did not show that objectively grave reason motivated her to leave work, and did not demonstrate good cause for doing so. Claimant is disqualified from receiving unemployment insurance benefits.

DECISION: Hearing Decision 15-UI-45144 is affirmed.

Susan Rossiter and J. S. Cromwell

DATE of Service: November 10, 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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