

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-1266

Affirmed
Disqualification

PROCEDURAL HISTORY: On September 2, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 70717). Claimant filed a timely request for hearing. On October 1, 2015, ALJ Micheletti conducted a hearing, and on October 5, 2015 issued Hearing Decision 15-UI-45385, affirming the Department's decision. On October 26, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant submitted a written argument, but failed to certify that he provided a copy of that 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 failed to show that factors or circumstances beyond his reasonable control prevented him from offering the information during the hearing as required by OAR 471-041-0090 (October 29, 2006). For these reasons, EAB considered only information received into evidence at the hearing when reaching this decision. *See* ORS 657.275(2).

FINDINGS OF FACT: (1) Brightwood Corporation employed claimant from August 23, 2004 until May 8, 2015, last as a line operator.

(2) Sometime before approximately September 2014, claimant was displeased with the actions of the plant manager. Claimant went to the employer's human resources department to complain about the plant manager. Claimant also routinely went to the human resources department if he had other problems, such as thinking his paycheck was in an incorrect amount.

(3) As of 2015, claimant earned \$15.50 per hour. Claimant had not had a raise since approximately 2007. During this eight year period, claimant was promoted from stacker to line operator, and had assumed responsibility for training new line operators.

(4) By 2015, claimant thought the employer was not paying him enough because his work responsibilities had significantly increased since his last raise. Beginning in approximately February 2015, claimant started asking the plant manager and the floor supervisor to raise his pay or, if his pay was not raised, to demote him to a position with lesser responsibilities, such as stacker. Claimant did not perceive that either the plant manager or the floor supervisor gave him a clear response to his requests.

(5) By April 2015, claimant concluded that the plant manager and the floor supervisor were going to continue to treat him unfairly and not give him a raise or a transfer to a less demanding position at his present rate of pay. Claimant did not complain to the employer's human resources department about the plant manager's or the floor supervisor's lack of responsiveness to his requests, and did not seek the assistance of that department in his dealings with either of them.

(6) On approximately April 24, 2015, claimant submitted a resignation to the employer. On May 8, 2015, claimant voluntarily left work.

CONCLUSIONS AND REASONS: 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). "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.

While claimant contended that he left work when he did because he thought it was unfair for the employer not to give him a raise or, if it chose to retain his current level of pay, not to transfer him to a less demanding position in which the pay would be commensurate to his level of work responsibility, he did not show that any grave harms would result to him from continuing to work under his current circumstances. While claimant generally asserted that the employer was taking advantage of him, he did not demonstrate how this belief translated into any cognizable injuries to him that made his continuing work intolerable, or significantly detrimental. Absent evidence that grave circumstances motivated claimant to leave work, this record is insufficient to show that claimant had good cause to leave work when he did. Even if the unfairness that claimant perceived was an objectively grave circumstance, claimant did not seek the assistance of the employer's human resources department in rectifying the matter of his pay or in moving him to what he believed was appropriately paying position, when he was aware of the human resources department and had before sought its intervention on his behalf when he had complaints about a prior plant manager. A reasonable and prudent line operator, exercising ordinary common sense, would not have concluded that he needed to leave work over pay issues that he considered grave until he had first sought the assistance of the human resources department and determined that it would not or could not help him in resolving them. Because claimant did not take the actions of a reasonable and prudent person before he decided to leave work, he also did not show that there was no alternative to leaving work when he did.

Claimant did not show that he had good cause to leave work when he did. Claimant is disqualified from receiving unemployment insurance benefits.

DECISION: Hearing Decision 15-UI-45385 is affirmed.

Susan Rossiter and J. S. Cromwell, participating.

DATE of Service: November 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. 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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