

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-1287

Affirmed
Disqualification

PROCEDURAL HISTORY: On September 8, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause (decision # 94115). Claimant filed a timely request for hearing. On October 8, 2015, ALJ Frank conducted a hearing, and on October 14, 2015 issued Hearing Decision 15-UI-45883, affirming the Department's decision. On October 29, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) South Side Pub Inc. employed claimant from October 2, 2014 to July 17, 2015.

(2) Claimant initially worked for the employer as a cook. The employer eventually promoted him to kitchen manager. However, the employer's owner became dissatisfied with claimant's performance as a manager. On July 13, 2015, the owner informed claimant that he had hired a new kitchen manager. The owner offered to allow claimant to continue working for the employer as a cook, with no reduction in hours or rate of pay. Claimant accepted the owner's offer.

(3) On July 15, 2015, claimant attended a staff meeting at which the owner introduced and announced the hiring of the new kitchen manager. Several employees applauded the new hire. Over the next two days, claimant sensed that the work "environment" and "attitude" of other employees toward him had changed. Audio Record at 9:45-10:30. Claimant quit work because he felt "humiliated by the situation." Audio Record at 10:45.

CONCLUSIONS AND REASONS: We agree with the Department and the ALJ that claimant quit working for the employer 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).

Claimant quit work because he felt humiliated after being demoted from kitchen manager back to cook. However, the good cause 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. Here, the employer did not reduce claimant's hours or rate of pay. Although several employees applauded his replacement, that single incident and claimant's vague sense that the work "environment" and "attitude" of other employees toward him changed fail to establish a situation that, viewed objectively, was so humiliating that no reasonable and prudent person would have continued to work for his employer for an additional period of time.

We therefore conclude that claimant quit work without good cause. Claimant is disqualified from the receipt of benefits.

DECISION: Hearing Decision 15-UI-45883 is affirmed.

Susan Rossiter and J. S. Cromwell.

DATE of Service: November 20, 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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