

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-1308

Affirmed
Disqualification

PROCEDURAL HISTORY: On September 18, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 172515). Claimant filed a timely request for hearing. On October 19, 2015, ALJ Murdock conducted a hearing, and on October 21, 2015 issued Hearing Decision 15-UI-26274, affirming the Department's decision. On November 5, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Willamette Manor, Inc. employed claimant as a caregiver from October 14, 2011 until August 14, 2015. The employer's workplace was located in Lebanon, Oregon and claimant lived in Lebanon.

(2) In approximately March 2015, claimant and her boyfriend started living together in Lebanon. In approximately May 2015, the boyfriend lost his job. On July 4, 2015, claimant and her boyfriend became engaged and decided on a marriage date of September 22, 2015.

(3) After claimant's fiancé lost his job in May 2015, he was unable to locate a new job in Lebanon or in surrounding areas in Linn County, Oregon. By July 2015, claimant and her fiancé had decided to move to the Oregon coast and live in somewhere in Lincoln County, Oregon. Claimant's fiancé had family in Lincoln County and both thought that he would be more readily able to find work in Lincoln County than in Linn County.

(4) On July 18, 2015, claimant gave the employer a resignation letter. Claimant told the employer she was resigning to look for job opportunities on the Oregon coast and that her last day of work was going to be August 14, 2015. When claimant submitted her resignation neither she nor her fiancé had offers of work on the coast. On July 22, 2015, claimant inquired about potential caregiver jobs through an employer located on the coast. That employer told claimant that it would consider her for a job and to contact it for an interview after she had relocated to the coast. In the beginning of August 2015,

claimant paid her rent in Lebanon through August 20, 2015. At approximately that same time, claimant and her fiancé rented a house in Seal Rock, on the Oregon coast, and intended to take possession of that rental sometime around August 14 or 15, 2015. On approximately August 12 or 13, 2015, claimant's fiancé was offered a job in Lincoln County, Oregon that started on approximately August 17, 2015.

(5) Claimant voluntarily left work on August 14, 2015 and immediately moved to Seal Rock. When claimant left, the employer had continuing work available for her. After claimant was settled in Seal Rock, she contacted the employer she had previously contacted about caregiving work on the coast. That employer told her that, due to the length of time it took her to move to the coast, it had given the jobs it had available to other applicants.

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 her employer for an additional period of time.

Claimant decided in July 2015 to leave work and move to the Oregon coast because she and her fiancé believed that he had better job prospects on the coast. While OAR 471-030-0038(5)(g) states that it is good cause to leave work if a claimant leaves due to "compelling family reasons," and OAR 471-030-0038(1)(e) defines "compelling family reasons" to include leaving work to accompany a spouse when the location of the spouse's work has changed to a location where it is not practicable for claimant to continue to commute to work, this exception is not applicable to claimant's situation. First, claimant was not married to her fiancé, and he was not yet her spouse, when she made her decision to leave work and actually left work. Second, when claimant submitted her resignation to the employer, her fiancé did not yet have a job at the coast, and the need to accompany him to a new job could not have proximately caused her decision to leave work. While OAR 471-030-0038(5)(g) does not prevent claimant from showing that the need to relocate to follow her fiancé to the coast was a "grave reason" to leave work within the meaning of OAR 471-030-0038(4), she did not present any reasons to support the gravity of her situation. She did not show, for example, that she thought her relationship with her fiancé would be jeopardized if she did not move to the coast with him, and she did not suggest that her fiancé was intent on moving to the coast even if she did not agree to relocate. Claimant also did not suggest that financial considerations required that she accompany her fiancé to the coast, such as, for example, she needed his income contributions to her household. On this record, claimant did not meet her burden to show that grave reasons led to her decision to leave work.

Claimant did not demonstrate good cause for leaving work when she did. Claimant is disqualified from receiving unemployment insurance benefits.

DECISION: Hearing Decision 15-UI-46274 is affirmed.

Susan Rossiter and J. S. Cromwell

DATE of Service: December 11, 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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