

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-1411

Affirmed
Disqualification

PROCEDURAL HISTORY: On October 27, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 73425). Claimant filed a timely request for hearing. On November 23 2015, ALJ Buckley conducted a hearing, and on November 24, 2015, issued Hearing Decision 15-UI-48207, affirming the administrative decision. On November 30, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

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

FINDINGS OF FACT: (1) Letica Corporation employed claimant as a packer/handler from September 13, 2013 until September 25, 2015.

(2) Claimant's job duties included inspecting plastic buckets as they came out of a machine, packing the buckets in cardboard trays, and stacking them on wooden pallets. The machine produced 160 buckets in 20 minutes. At times, claimant found it difficult to keep up with the production of buckets because of the poor quality of cardboard he was given in which he was expected to pack the buckets. Claimant was also frustrated by the quality of pallets he used. Many of the pallets were broken or damaged, and claimant had to remove the damaged pallets and take them to a pallet recycling area.

(3) The employer conducted a meeting for all employees five minutes before their shift was scheduled to begin. At this pre-shift meeting, employees were provided with safety information and discussed

other issues related to their work assignments. Employees were not required to attend this pre-shift meeting, and were not paid for the time spent at the meeting

(4) When claimant received his paycheck on September 25, 2015, he believed that he had not received a salary increase to which he was entitled. Claimant did not discuss this issue with his supervisor or the employer's human resources manager.

(5) On September 25, 2015, claimant quit his job because he was dissatisfied with his working conditions.

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 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 h employer for an additional period of time.

Claimant quit his job with the employer because he was dissatisfied with his working conditions. He cited a number of reasons for this dissatisfaction, including the poor quality of the materials with which he was expected to work, repeated changes in work procedures of which he was given inadequate notice, failure to receive a salary increase to which he was entitled, and the requirement that he attend a meeting for which he was not paid.

Concerning the salary increase claimant expected to receive, the employer's human resources manager explained that claimant was entitled to a raise only after an annual performance review was completed, and that claimant quit before this review had been conducted. Concerning the quality of the materials claimant was given to work with, claimant no doubt found it frustrating to have his packaging work interrupted by the need to remove broken pallets, and also found it difficult to keep up his production when he was given poor quality cardboard. Claimant admitted, however, that "most of the time" he was given the right materials. Transcript at 14. Claimant also testified that he was never disciplined or admonished for working too slowly. Although claimant may have disliked attending a pre-shift meeting for which he was not paid, he was not required to do so. The record contains no evidence that claimant would have been disadvantaged in any way had he not attended the pre-shift meeting. In regard to the changes in work procedures to which claimant objected – such as requiring that pallets be stacked no more than six high, and requiring that cardboard tray packs not be assembled in advance – claimant failed to demonstrate that these changes impeded his work in any way or otherwise made his job more difficult. Transcript at 22- 23. To the contrary, the human resources manager testified that these changes were made to create a safer work environment for employees.

In sum, claimant failed to meet his burden to demonstrate that any of the circumstances that caused him to quit his job created a situation so grave that he had no alternative but to leave work. Claimant is disqualified from the receipt of unemployment benefits on the basis of this work separation.

DECISION: Hearing Decision 15-UI-48207 is affirmed.

Susan Rossiter and J. S. Cromwell

DATE of Service: January 5, 2016

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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