

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-1506

Affirmed
Disqualification

PROCEDURAL HISTORY: On September 9, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 144638). Claimant filed a timely request for hearing. On December 10, 2015, ALJ Logan conducted a hearing at which the employer did not appear, and on December 11, 2015 issued Hearing Decision 15-UI-49244, affirming the Department's decision. On December 19, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Masterbrand Cabinets, Inc. employed claimant as a machine operator from May 3, 2000 until July 6, 2015.

(2) In approximately 2000 or 2001, claimant married his wife. Claimant's wife is partly of Hispanic ancestry. Claimant had a daughter who was born sometime after approximately 2000. Claimant and his immediate family lived in Grants Pass, Oregon. Claimant's family of origin also lived in Grants Pass.

(3) Claimant considered his family to be biased toward his wife because of her ethnicity. On one occasion, claimant became involved in a physical altercation with a family member when the family member made what claimant perceived was a negative comment about his wife's ethnicity. Claimant's relations with his family of origin were strained due to his perception that his family members were bigoted and he avoided contact with those family members he considered bigoted. Claimant thought that he had a "horrible family." Audio at ~10:45

(4) As claimant's daughter became high school aged, claimant thought that the educational opportunities available for her in the Grants Pass public schools were limited. Claimant wanted his daughter to have the type of education that would prepare her for college and he did not think she would obtain that type of education in Grants Pass. Claimant also disliked the level of public safety in Grants Pass. Claimant thought that law enforcement in Grants Pass was underfunded and criminal perpetrators were too often issued citations rather than being arrested and incarcerated.

(5) In June 2015, claimant's grandmother died. Up to that time, claimant had assisted in caring for his grandmother. After his grandmother's death, claimant and his wife discussed relocating to improve their lives and the life of their daughter. They had always enjoyed Portland, Oregon when they visited that city, and thought that its public schools would provide a better education for their daughter than the education available in Grants Pass. They made the decision to move to the Portland area.

(6) On approximately June 30, 2015, claimant informed the employer he was quitting work on July 6, 2015. On July 6, 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.

Claimant decided to leave work because he thought that Portland would afford better opportunities for his immediate family and allow them to avoid the pernicious, ethnically biased attitudes of some members of his family of origin. While claimant's desire to settle in a location where he believed the atmosphere would be more conducive to the well-being of his immediate family is praiseworthy, he must show that he left work for objectively grave reasons, and that there was no reasonable alternative other than quitting work, to avoid disqualification from unemployment benefits. In this case, claimant testified that, as an alternative to moving from Grants Pass to avoid contact with his family of origin, he might have moved to another area of Grants Pass, an area those family members did not frequent, and thereby he could have continued to work for the employer. Audio at ~17:30. While claimant testified he thought the Portland area public high schools would be better for his daughter's educational attainment, he did not present evidence that the public schools in Grants Pass were so objectively inferior that the harm to his daughter by attending them constituted a grave reason to leave Grants Pass and his employment. Similarly, claimant did not show that the alleged underfunding to public safety in Grants Pass had a concrete impact on him or his family, or that some specific interest of theirs was seriously harmed or jeopardized by the lack of public safety that he perceived. In sum, although claimant's desire to live in a location he thought was more advantageous to his aims for his immediate family and more ethnically tolerant, he did not show that a reasonable and prudent person would have considered living in Grants Pass a necessarily grave circumstance for which there was no reasonable alternative other than to quit work and move away from Grants Pass.

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

DECISION: Hearing Decision 15-UI-49244 is affirmed.

Susan Rossiter and J. S. Cromwell, participating.

DATE of Service: January 15, 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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