

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0016

Affirmed
Disqualification

PROCEDURAL HISTORY: On August 26, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 164825). Claimant filed a timely request for hearing. On December 8, 2015, ALJ S. Lee conducted a hearing, and on December 16, 2015 issued Hearing Decision 15-UI-49487, affirming the Department's decision. On December 31, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Jo-Ann Fabric & Craft Stores employed claimant as a cashier from August 12, 2012 until June 4, 2015.

(2) During the time of her employment, claimant came to think that the employer's stores were "incompetently" managed. Audio at ~10:10, ~11:00, ~15:20. Claimant thought the employer's systems for holding its store managers accountable were "failing." Audio at ~14:00.

(3) After approximately July 2013, the same person has managed the store at which claimant worked. Since July 2013, the store at which claimant worked failed numerous internal audits of its operations, practices and management that the employer performed. Although claimant personally liked the manager of her store very much, she thought the audit results showed that the store's manager was not competent to perform the duties of her position. Claimant was displeased that the employer did not replace that store manager.

(4) On occasion after July 2013, claimant told her manager that she was dissatisfied with the "direction the [employer's] organization was going" and with the work environment in the store. Audio at ~22:53.

Claimant told the manager that the employer's expectations for the store were "too high" or "not attainable." Audio at ~23:40.

(5) On approximately May 4, 2015, claimant informed her manager that she intended to leave work on approximately May 18, 2015. Claimant told the manager that she was "done with being at Jo-Ann's and wanted to spend more time with her family." Audio at ~24:22. Claimant later agreed with the manager to work until June 4, 2015.

(6) On June 4, 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 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's testimony that she thought the employer was not overseeing the operations of its stores competently, and she perceived that the manager of the particular store at which she worked was not competent, appeared sincere. While claimant expressed concern over the ability of the staff at particular stores to continue to perform capably, and to maintain morale when their managers were failing, she did not identify any significant harm to herself or other staff members from this supposedly inadequate leadership, and none can be discerned from her descriptions of it. It is not unknown for employees to disagree with their employer's overall direction or with the adequacy of their immediate manager's performance, and most do not leave work as a result of unless it is accompanied by some perceptible and significant level of harm to themselves or to others. Although claimant might have been displeased by the employer's or her manager's method of management and disapproved of them, she did not, on this record, meet her burden to show that either or both were grave reasons to leave work.

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

DECISION: Hearing Decision 15-UI-49487 is affirmed.

Susan Rossiter and J. S. Cromwell, participating.

DATE of Service: January 22, 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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