

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0148

Affirmed
Disqualification

PROCEDURAL HISTORY: On December 18, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant, but not for misconduct (decision # 141847). The employer filed a timely request for hearing. On February 3, 2016, ALJ Vincent conducted a hearing, and on February 5, 2016 issued Hearing Decision 16-UI-52488, concluding claimant voluntarily left work without good cause. On February 10, 2016, 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). Therefore, we did not consider the argument when reaching this decision. Even if we had, the outcome of this decision would remain the same for the reasons explained.

FINDINGS OF FACT: (1) Medelez, Inc. employed claimant as a truck driver from July 8, 2015 to October 21, 2015.

(2) The employer prohibited truck drivers from carrying passengers without authorization, and required all passengers to sign a liability waiver before they could ride in the employer's vehicles. The employer notified claimant of this prohibition via its policy, and provided claimant with a copy of the policy.

(3) On February 14, 2015, claimant allowed his wife to ride with him in the employer's vehicle without authorization.¹ The employer subsequently gave claimant a written warning, reminded him about the policy, and gave him another copy of the policy.

(4) On October 19, 2015, claimant allowed his wife, an unauthorized passenger, to ride with him. Claimant's passenger was with claimant when claimant drove to the office. A manager saw the

¹ The parties referred to claimant's passenger at various times as both his wife and his girlfriend. For purposes of this decision, we are referring to her as his wife.

passenger and yelled at claimant about having a passenger on the truck. Claimant said he had permission to have a passenger. The manager called the person claimant alleged had authorized his passenger. The person denied authorizing claimant's passenger. The manager then asked claimant why he was lying.

(5) Claimant felt embarrassed and hurt that the manager had yelled at him. He felt that the manager had been disrespectful and had put him in a bad light in front of his wife. Claimant was not willing to continue working for the employer, and, when asked to resume working a couple of days after October 19th, refused to return to work.

CONCLUSIONS AND REASONS: We agree with the ALJ 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 his employer for an additional period of time.

Claimant quit work because he was embarrassed and hurt after getting reprimanded for violating the employer's policy in front of his wife. Although individuals can reasonably expect managers to refrain from yelling at them, claimant did not establish that being yelled at by a manager on one occasion was conduct so hostile or abusive that it left him no alternative but to quit work immediately rather than seek a resolution to his concerns. In the final incident, claimant had, in fact, violated the employer's policy by allowing an unauthorized passenger in the employer's vehicle, and the employer had the right to reprimand him for it. Claimant assumed the risk that his wife would hear the reprimand by allowing her to ride in his vehicle and driving the vehicle to the employer's office. Claimant did not describe any reason why his embarrassment and hurt feelings constituted a grave situation, nor did he explain how he benefitted or resolved his concerns by quitting work. No reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would consider embarrassment and hurt feelings over a reprimand to constitute a situation so grave that he had to leave work over it.

Claimant quit work without good cause. Claimant is disqualified from receiving unemployment insurance benefits because of his work separation.

DECISION: Hearing Decision 16-UI-52488 is affirmed.

Susan Rossiter and J. S. Cromwell;
D. P. Hettle, not participating.

DATE of Service: February 29, 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.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveymonkey.com/s/5WQXNJH>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.