

**EMPLOYMENT APPEALS BOARD DECISION**  
**2016-EAB-0285**

*Affirmed*  
*Disqualification*  
*(Descalificación)*

**PROCEDURAL HISTORY:** On December 1, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 113109). Claimant filed a timely request for hearing. On March 7, 2016, ALJ Seideman conducted a hearing, and on March 8, 2016 issued Hearing Decision 16-UI-54565, affirming the Department's decision. On March 11, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Meduri Farms, Inc. employed claimant as a packing and production worker from May 8, 2013 to June 19, 2015.

(2) Claimant did not get along with her supervisor. Claimant felt as though she was performing her job to the best of her abilities, but the supervisor frequently criticized her. Claimant felt as though she could not do anything right, and that her supervisor blamed her or the other afternoon shift workers whenever anything went wrong. Claimant felt that the supervisor preferred the morning shift workers over claimant and the afternoon shift workers. Claimant also thought her supervisor did not provide her with adequate training.

(3) Claimant complained to her supervisor's managers and asked to be transferred to a different position so she no longer had to work with her supervisor. Claimant was told that the employer needed her to continue in the same position.

(4) On May 6, 2015, the night supervisor touched claimant on the shoulder or neck area. Claimant felt upset, and reported the night supervisor to the employer. The employer investigated, verified what had occurred, gave the night supervisor a warning, and told claimant that they had done so. After the incident, claimant felt that her coworkers made fun of her because they thought the night supervisor had embraced her.

(5) Claimant felt that the supervisor would always find something wrong with claimant's work no matter how hard claimant tried to do her job correctly, and, on June 19, 2015, quit work for that reason.

**CONCLUSIONS AND REASONS:** We agree with the Department and the ALJ that 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 quit work because of how her supervisor treated her, but did not establish that her supervisor's behavior created a grave situation for her. Although claimant established that the supervisor showed favoritism to other employees, did not provide claimant with adequate training and did not appreciate claimant's efforts to perform her work correctly, claimant did not assert or show that the supervisor engaged in hostile or abusive behavior that left her no reasonable alternative but to quit work. Claimant did not describe any behavior on her supervisor's part that was so patently offensive or egregious that it constituted a situation of gravity.

Even if she had, claimant had reasonable alternatives to quitting work when she did. Although the employer denied claimant's request to transfer to a different position so she did not have to work with that supervisor, claimant did not establish that she notified the employer of her specific concerns about her supervisor's behavior or allowed the employer the opportunity to address them. Nor did claimant show that it would have been futile to do so, given that the employer had investigated claimant's complaint about a different supervisor, warned that supervisor that his behavior was inappropriate, and notified claimant that the employer had resolved her complaint. The employer's response to claimant's other complaint demonstrated that the employer would likely investigate any specific complaints she made about her supervisor's behavior, issue any appropriate warnings, and notify claimant of the results of its investigation. A similarly situated reasonable and prudent person would not have left work for the reason claimant described without giving the employer a reasonable opportunity to investigate and resolve claimant's complaints about her manager.

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

**DECISION:** Hearing Decision 16-UI-54565 is affirmed. *Decisión de la Audiencia 16-UI-54565 queda confirmada.*

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

**DATE of Service: April 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](http://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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*NOTA: Usted puede apelar esta decisión presentando una solicitud de revisión judicial ante la Corte de Apelaciones de Oregon (Oregon Court of Appeals) dentro de los 30 días siguientes a la fecha de notificación indicada arriba. Ver ORS 657.282. Para obtener formularios e información, puede escribir a la Corte de Apelaciones de Oregon, Sección de Registros (Oregon Court of Appeals/Records Section), 1163 State Street, Salem, Oregon 97310 o visite el sitio web en [courts.oregon.gov](http://courts.oregon.gov). En este sitio web, hay información disponible en español.*

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