

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0390

Affirmed
Disqualification

PROCEDURAL HISTORY: On March 1, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 92807). Claimant filed a timely request for hearing. On March 28, 2016, ALJ Wymer conducted a hearing, and on March 29, 2016, issued Hearing Decision 16-UI-55965, affirming the administrative decision. On April 6, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Rose City Rebar, the employer, employed claimant as a shop worker from April 15, 2015 until June 7, 2015.

(2) On June 7, 2015, claimant learned that his relative, his half-brother, was being evicted from his home in Vancouver, Washington and needed to move to Merced, California. The relative had no friends or family members with whom he could live in Washington, and needed to move to Merced to live with his immediate family. Claimant left work to assist his family member in moving, a process which took approximately 13 hours. Claimant did not speak to anyone at the employer before he left work because he believed the need to assist his relative was so urgent that he had no time to attempt to make any arrangements with the employer.

(3) Claimant did not contact his employer after he left on June 7, and never returned to work for the employer.

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

Claimant quit his job with the employer because he needed to assist his relative, who was being evicted from his home, to move. Although the need to help his relative find secure and stable housing was a grave situation, claimant failed to meet his burden to demonstrate that he had no reasonable alternative but to voluntarily leave work. Claimant could have (but did not) contacted the employer to explain his situation and ask for leave before he left on June 7. The employer's representative testified that although claimant had no paid leave available on the date he left work, employees have been permitted to take unpaid time off to deal with personal matters. Audio recording at 23:32 and 24:35. A reasonable and prudent person would have talked to the employer about the possibility of taking leave to deal with a family matter that required approximately 13 hours of his time before deciding he had no alternative but to quit his job.

Claimant voluntarily left work without good cause. He is disqualified from the receipt of unemployment benefits on the basis of this work separation.

DECISION: Hearing Decision 16-UI-55965 is affirmed.

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

DATE of Service: May 2, 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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