

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0453

Affirmed
Disqualification

PROCEDURAL HISTORY: On March 3, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 160221). Claimant filed a timely request for hearing. On April 4, 2016, ALJ Menegat conducted a hearing, and on April 5, 2016 issued Hearing Decision 16-UI-56550, affirming the Department's decision. On April 18, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Clatsop County School District #8 employed claimant from August 27, 2007 until February 4, 2016, last as a teacher of three classes and performing some administrative work. Claimant worked at the employer's school in Jewell, Oregon.

(2) In June 2013, the employer hired a new superintendent. Shortly after she was hired, the superintendent eliminated much of the administrative work claimant was performing and eliminated the additional compensation (or stipends) that claimant was receiving for it. Claimant did not think the superintendent's action was appropriate.

(3) During school year 2014-2015, the employer advertised an opening for an athletic and student activities coordinator. Claimant was interested in applying for the position but one of the prerequisites the superintendent had established for it was that the applicants needed to have taught a leadership class. Claimant had not taught such a class and did not apply for that position. Claimant thought that the leadership requirement was unnecessary for the position, and that it was unfair for the superintendent to have imposed it.

(4) In school year 2015-2016, claimant developed a rash, stomach problems, loose bowels and experienced bad headaches, which she attributed to stress from working.

(5) In school year 2015-2016, claimant perceived the superintendent was making negative comments about her in group emails that some of the other staff also received. Claimant did not raise this issue with the superintendent or let the superintendent know she considered the emails critical of her.

(6) Sometime before January 2016, claimant began a personal online “Go-Fund-Me” account to benefit students at the schools in Jewell and in the nearby town of Vernonia. The superintendent spoke with the employer’s business manager and told the business manager she needed to confer with claimant about what the money contributed to that account was going to be used for. During a staff leadership meeting held sometime in approximately January 2016, the business manager asked claimant about the money in the Go-Fund-Me and how it had been or was going to be spent. Claimant interpreted that inquiry as questioning her honesty and the manner in which she was handling the account. Claimant thought the business manager’s question and comments at the meeting were “humiliating.” Transcript at 8.

(7) The superintendent had been aware for a time that the proportion of students in the Jewell area who lived in families with incomes below the poverty level had dramatically increased over recent years. In school year 2015-2016, because many of the school’s teachers and staff did not live in the Jewell area, the superintendent thought it would benefit them and improve their instructional strategies and the quality of their interactions with students from low-income families if they saw the conditions in which those students lived. On February 3, 2016, the superintendent arranged for claimant and other staff at the Jewell School to travel off-site and tour the neighborhoods where the low-income students and their families resided. Some of those low-income parents complained to claimant about the tour. Claimant perceived many of the parents were “irate” because school staff had come to their neighborhoods for the specific purpose of observing how impoverished people lived. Transcript at 5. The tour “sickened” claimant. Transcript at 13. Claimant thought the superintendent was misguided in sponsoring the tour.

(8) On February 4, 2016, claimant resigned from work, effective immediately. Although claimant’s resignation letter stated she was quitting due to “stress” and “health reasons,” the event that motivated her to quit work was the February 3, 2016 tour of the neighborhoods where low-income families resided.

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 position at hearing was that she decided to quit work on February 4, 2016 because the community tour of the day before “sickened” her and apparently exemplified what she thought was the superintendent’s misguided approach to various issues. Transcript at 5, 12, 13. Claimant did not mention at hearing any other incidents that contributed to her decision to leave, and specifically did not mention that her health or any personal mistreatment was a factor in her decision. As claimant described the community tour, no aspect of it appears to have constituted a grave reason to leave work. While claimant might have thought the point of the tour was voyeuristic and potentially embarrassing to the residents of the neighborhoods that were visited, she did not identify any harm that befell her from it and

none can be discerned from our review of her testimony. Whether the superintendent's decision to have the tour was or was not well-founded, claimant did not meet her burden to show that her attendance on the tour or events occurring during it was so injurious or harmful to her that it gave rise to a grave reason to leave work.

To the extent claimant's health or the complaints she detailed in her testimony might have contributed to her decision to leave work, which seemed from her testimony not to be the case, claimant did not present evidence suggesting or tending to suggest that they were grave reasons to leave work. Significantly, from the manner in which claimant described them, there was insufficient evidence to conclude that her health and the other matters of which she complained had significant negative impacts that impaired her ability to function or gave rise to other physical or emotional harms. In addition, claimant did not testify that she took any steps to resolve these issues short of quitting or, that she ever brought them up to the superintendent, her supervisors or any other members of the employer's management. On the record as it currently exists, claimant did not meet her burden to show that health concerns or the other complaints she had were grave reasons to leave work, and that she had no reasonable alternatives to quitting work when she did.

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

DECISION: Hearing Decision 16-UI-56550 is affirmed.

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

DATE of Service: May 24, 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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