

**EMPLOYMENT APPEALS BOARD DECISION**  
**2016-EAB-0484**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On March 22, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 10475). Claimant filed a timely request for hearing. On April 18, 2016, ALJ M. Davis conducted a hearing at which the employer failed to appear, and on April 21, 2016, issued Hearing Decision 16-UI-57810, affirming the administrative decision. On April 28, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant failed to certify that he provided a copy of his two written arguments to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). The arguments also contained information that was not part of the hearing record, and failed to show that factors or circumstances beyond claimant's reasonable control prevented claimant from offering the information during the hearing as required by OAR 471-041-0090 (October 29, 2006). We considered only information received into evidence at the hearing when reaching this decision. *See* ORS 657.275(2).

**FINDINGS OF FACT:** (1) Mt. Hood Community College employed claimant as an assistant teacher in a classroom of five-year old children from September 8, 2015 until February 9, 2016.

(2) Claimant was extremely unhappy with the conditions in the classroom where he worked. He was required to perform duties which were not part of his job description, such as giving children injections, and was unable to effectively meet the needs of the children he was expected to serve because the classroom was regularly understaffed. In addition, claimant was required to work long hours and was often unable to take breaks. Audio Recording at 8:20.

(3) On February 9, 2016, claimant met with his supervisors to discuss his performance. Claimant was shocked and surprised to find that his supervisors were highly critical of his performance. Prior to February 9, claimant had never been notified of any performance deficiencies. Claimant was also upset by the evaluation, because he believed his employer was holding him responsible for problems with the

program over which he had no control. Claimant's supervisors told him that they would talk to the employer's review board, and that the review board might discharge claimant. Audio Recording at 6:28.

(4) After the February 9 meeting, which occurred at the end of claimant's work shift, he left the workplace and never returned. Claimant quit his job because he believed the employer was going to discharge him.

**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 voluntarily left work for the employer because he believed the employer was going to discharge him. A claimant demonstrates good cause for quitting a job if the claimant voluntarily leaves work because discharge is reasonably certain and likely imminent, and the impending discharge would not be for misconduct. Here, claimant failed to demonstrate that he faced imminent discharge as a result of his February 9, 2016 meeting. When asked what he was told about his job on February 9, claimant testified that he had the "impression" that he would not be employed much longer, that he was told that the employer "may" let him go, and that he "got the vibe" that he would be discharged. Audio recording at 6:28, 7:38, 13:04, and 15:44. Based on claimant's testimony, we cannot conclude that his supervisors told him on February 9 that his discharge was reasonably certain or inevitable. In addition, claimant had the reasonable alternative of waiting until he had calmed down to clarify the status of his job with his supervisors, and to ask if he could be given time to improve his performance, and if he could appeal his negative evaluation to the employer's review committee. Finally, absent evidence that a discharge on his employment record would have substantially interfered with claimant's search for other work, he had the reasonable alternative of continuing to work for the employer until the review committee made a decision regarding his continued employment. Claimant failed to establish that no reasonable and prudent person would have pursued those alternatives before deciding to voluntarily leave work.

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-57810 is affirmed.

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

**DATE of Service:** May 26, 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.

**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.