

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0503

Affirmed
Disqualification

PROCEDURAL HISTORY: On March 31, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision #140132). Claimant filed a timely request for hearing. On April 26, 2016, ALJ Murdock conducted a hearing, and on April 29, 2016, issued Hearing Decision 16-UI-58512, affirming the Department's decision. On May 4, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) The Oregon Tourism Commission employed claimant, last as its PDX visitor services coordinator, from December 8, 2008 to March 4, 2016.

(2) Claimant began her employment as a development assistant. In March 2015, the employer promoted her to the position of visitor services coordinator, which resulted in increased responsibilities and compensation. However, on February 18, 2016, the employer notified claimant that it was dissatisfied with her work performance and that she was being demoted to the position of travel advisor, which would result in decreased responsibilities and a 33% reduction in her compensation, paying approximately \$15,000 less per year than the visitor services coordinator position. Exhibit 1. The employer further notified claimant that although the effective date of her demotion was February 18, 2016, the effective date of her salary reduction would be April 1, 2016.

(3) Claimant was unhappy with the unexpected demotion and believed the impending reduction in compensation would cause her "financial hardship." Exhibit 1. On February 24, 2016, claimant gave the employer notice that she was resigning her employment for that reason on March 4, 2016, and did so on that day.

CONCLUSIONS AND REASONS: We agree with the Department and ALJ. Claimant voluntarily left work without good cause.

A claimant who leaves work voluntarily is disqualified from the receipt of benefits unless she (or he) 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 the employer for an additional period of time.

In Hearing Decision 16-UI-58512, the ALJ concluded that claimant voluntarily left work without good cause, reasoning that “claimant did not establish that she faced a grave situation by the demotion...” Hearing Decision 16-UI-58512 at 2. However, viewed objectively, a 33% reduction in salary may very well have presented claimant with a grave situation. Even assuming that it did, claimant still failed to meet her burden to establish that no reasonable person in her circumstances would have continued to work for the employer for an additional period of time. The reduction in her salary was not scheduled to take effect until April 1, 2016, 27 days after she quit. Claimant failed to show that her costs of working exceeded her compensation or that she otherwise derived *any* benefit from quitting work when she did, rather than waiting until her salary was reduced. *See, Oregon Public Utility Commission v. Employment Department*, 267 Or App 68, 340 P3d 136 (2014) (an important underlying principle for establishing good cause for leaving work is that a person must derive some benefit from doing).

Accordingly, we agree with the ALJ’s conclusion that claimant voluntarily left work without good cause under ORS 657.176(2)(c). Claimant is disqualified from receiving unemployment insurance benefits until she has earned four times her weekly benefit amount from work in subject employment.

DECISION: Hearing Decision 16-UI-58512 is affirmed.

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

DATE of Service: June 6, 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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