

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0507

Affirmed
Disqualification

PROCEDURAL HISTORY: On March 21, 2006, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 110401). Claimant filed a timely request for hearing. On April 13, 2016, ALJ Vincent conducted a hearing, and on April 21, 2016 issued Hearing Decision 16-UI-57817, affirming the Department's decision. On May 2, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant failed to certify that she provided a copy of her written argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). Therefore, EAB did not consider that argument when reaching this decision.

FINDINGS OF FACT: (1) Willamette HVAC, LLC employed claimant as a full charge bookkeeper from August 24, 2014 until December 4, 2015.

(2) In late 2011, claimant separated from her husband and moved from California to Oregon. Subsequently, claimant and her husband divorced. Claimant's ex-husband continued to live in California.

(3) In approximately July 2015, before the employer hired claimant, she and her ex-husband began to communicate with each other again. Sometime after claimant began working for the employer, she and her ex-husband decided to attempt to re-establish their relationship. They decided claimant would leave Oregon and return to California to live with him. However, claimant's ex-husband needed to disentangle himself from his then-girlfriend, who was living with the ex-husband, before claimant could move.

(4) On November 9, 2015, claimant notified the employer she was going to leave work and move to California to try to reconnect with her ex-husband. After some discussions with the employer, it was agreed that December 4, 2015 would be claimant's last day at work.

(5) On December 4, 2015, claimant voluntarily left work. Subsequently, claimant sorted her belongings, and disposed of some them in preparation for moving to California. On or about December 26, 2015, the ex-husband's girlfriend moved out of his house in California. Sometime shortly before January 3, 2016, claimant's ex-husband travelled to Oregon to assist her in moving her possessions to California. With her ex-husband's help, claimant moved to California on January 3, 2016. Upon her arrival in California, claimant moved into her ex-husband's house.

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.

Significantly, claimant must show that grave reasons compelled her to leave work for which there were no alternatives other than for her to quit. Claimant left work because she wanted to see if she could rekindle a committed relationship with her ex-husband after approximately four years. While OAR 471-030-0038(1)(e)(C) and OAR 471-030-0038(5)(g), read together, state that it is good cause for leave work if an individual needs accompany a spouse or domestic partner to a new location, there is no specific regulatory provision providing that the need to move to attempt to establish or re-establish a committed, romantic relationship with another person is good cause for leaving work. Although we sympathize with claimant's desire to re-connect with her ex-husband, that desire does not give rise to grave reasons to leave work, especially when compared against the types of existing familial commitments we have previously considered good cause to leave work. A reasonable and prudent person, who had been communicating with an ex-spouse for only four months, would not have concluded that she needed to leave work based on the hope, without more, that she would succeed in rekindling her relationship with the ex-spouse.

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

DECISION: Hearing Decision 16-UI-57817 is affirmed.

Susan Rossiter and J. S. Cromwell;
D. P. Hettle, 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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