

**EMPLOYMENT APPEALS BOARD DECISION**  
**2016-EAB-0543**

*Affirmed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On March 14, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant quit working for the employer without good cause (decision # 123012). Claimant filed a timely request for hearing. On March 30, 2016, ALJ Dorr conducted a hearing, and on April 15, 2016 issued Hearing Decision 16-UI-57419, concluding that claimant quit with good cause. On May 5, 2016, the employer filed an application for review with the Employment Appeals Board (EAB).

The employer submitted a written argument in which it sought to present a great deal of information that it did not offer at the hearing. The employer did not explain why it was unable to present this information during the hearing or otherwise show, as required by OAR 471-041-0090 (October 29, 2006), that it was prevented from doing so by factors or circumstances beyond its reasonable control. For this reason, EAB did not consider the new information that the employer attempted to present by way of its written argument. EAB considered only information received into evidence during the hearing when reaching this decision.

**FINDINGS OF FACT:** (1) Hannah's, LLC employed claimant as a director of pet placement and procurement from March 5, 2012 until March 2, 2016. In conjunction with pet shelters and rescue operations with which it partnered, the employer attempted to find long-term placements for abandoned dogs and other pets.

(2) During claimant's employment, the employer's contracts with the shelters and other organizations with which it partnered required it to return dogs it was unable to place to the shelter or other organization from which had taken custody of the dogs rather than euthanizing them. Claimant and other members of the employer's staff were very committed to eliminating needless animal euthanasia.

(3) Sometime before November 23, 2015, claimant had concluded that the employer was unable to place three dogs it had in its custody. On November 23, 2015, the employer's management team, including claimant, met to decide what to do with those dogs. It was determined the dogs would be returned to the shelters or other organizations from which they had come.

(4) On November 24, 2015, claimant's supervisor instructed her to have all three dogs euthanized, despite the decision of the management team the day before. Claimant told the supervisor that his decision was contrary to that of the management team, that the employer's contracts with shelters and rescue organizations required it to return the dogs to them and that, in all the years she had worked for the employer, euthanasia had only been authorized by an upper management committee of five members and had never been authorized based on the decision of a single member of management. Claimant's supervisor did not listen, and told her to have the dogs "killed." Transcript at 19. Claimant told the supervisor she would need to inform the organizations from which the dogs had come of his decision to euthanize them, and the supervisor told claimant she should not tell those organizations anything. Claimant thought the supervisor's decision and his instructions to her "crossed the line." Transcript at Transcript at 17. Shortly after receiving this instruction, claimant contacted one of the employer's other directors to express her disagreement with her supervisor's decision and to try to forestall the euthanasia. On November 24, 2015, the dogs were euthanized. The nurse who assisted the veterinarian called one of the employer's manager's to express her disagreement with what she thought had been claimant's decision to euthanize the dogs.

(5) On December 3, 2015, an email was sent anonymously to the shelter and other organization from which the employer had taken custody of the euthanized dogs stating that the employer had killed the dogs "for no reason." Transcript at 19. Claimant's contacts from both of these organizations called claimant and accused her of making the decision to euthanize the dogs. Media organizations also began to contact claimant about the decision to euthanize the dogs. Claimant felt "awful" about these contacts. Transcript at 20.

(6) On Friday, December 4, 2015, the employer had a meeting to consider how the employer would deal with "in-house" dogs it was unable to place. Transcript at 20. As the meeting proceeded, claimant became aware that most, if not all of the participants were unaware that her supervisor had authorized the recent euthanasia of the three dogs that could not be placed. Claimant placed a copy of the mail that had been sent anonymously to protest the euthanasia of the three dogs on the table and tried to explain what had happened. The participants accused claimant of having made the decision to euthanize the dogs. The meeting erupted in outrage at claimant and "everybody was yelling [at claimant] about it being her fault that the dogs died." Transcript at 28. Claimant began to cry, was "beside [herself]," "lost it" and left the meeting. Transcript at 20. Claimant did not return to the workplace.

(7) On Monday, December 7, 2015, claimant did not report for work due to her upset over being blamed for the euthanasia of the three dogs. Claimant felt that she had been unfairly held responsible for that decision by the employer's staff and its management, and that, by euthanizing the dogs, the employer had required her to betray her personal commitment to the animal shelters and rescue organizations to avoid euthanasia of animals they placed in the custody of the employer. The employer authorized a medical leave for claimant while she dealt with the euthanasia of the three dogs. Ultimately, the leave

was extended through February 23, 2016. During the leave, claimant was under medical care for the impacts on her of the employer's decision to euthanize the dogs.

(8) After December 7, 2015, while she was on leave, claimant continued to be contacted by media outlets investigating the euthanasia of the dogs. The Oregon Department of Justice began its own investigation, and several complaints and lawsuits were filed against the employer for the euthanasia. Claimant concluded her professional reputation in the animal rights community was seriously damaged by the erroneous perception that she had made the decision to euthanize the dogs.

(9) On February 13, 2016, the employer sent an email to claimant asking what preparations, if any, should be taken to ease her return to work on February 23, 2016. At claimant's request, the employer gave her additional time to respond to this inquiry. On February 17, 2016, claimant sent an email to the employer replying that before November 2015 she had felt that she was making a "huge difference" in the lives of so many dogs and people. Transcript at 22. Claimant went on to state that she did not think she could return to work unless "something has changed" since her supervisor instructed her to have the dogs euthanized. Transcript at 22. Claimant's email further stated, "Those poor dogs were killed for no reason and their story continues on. The media will not let them die and will not leave me alone. . . . I feel I am blamed for what happened. My reputation, my health and my family have suffered. Please give me your advice. Please tell me what has changed at [the employer's organization] and please let me know how we can move forward together." Transcript at 22. Claimant wanted the employer to acknowledge to its management team that the euthanasia of the dogs in November 2015 had not been her decision.

(10) After February 17, 2016, the employer did not reply to claimant's email. It did not take any steps to correct its own employees' or the public's attribution of blame to claimant for the euthanasia of the three dogs. On March 2, 2016, when the employer had not responded to her email after two weeks, claimant concluded the employer did not intend to make any corrections and filed a claim for unemployment insurance benefits with the Department. On March 2, 2016, claimant voluntarily left work.

**CONCLUSIONS AND REASONS:** Claimant voluntarily left work with 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.

The employer did not challenge claimant's testimony at hearing that the employer's contracts with the shelters with which it contracted prohibited it from euthanizing pets without first trying to return them, that claimant did not make the decision to euthanize the dogs but was instructed to do so by her supervisor, that claimant protested the supervisor's decision, that the decision to euthanize the dogs was attributed both internally and publicly to claimant, rather than to her supervisor, and that claimant

experienced serious emotional impacts from this attribution and harm to her reputation. However, claimant did not decide to leave work until, in anticipation of her return to work on February 23, 2016, the employer did not respond in any way to her email inquiring whether the employer had taken any steps to avoid future euthanasia of dogs, and to correct the general impression that she had been responsible for the November 2015 euthanasia. By the employer's lack of response, claimant could only conclude that the employer was indifferent to what had previously occurred, and had not and did not intend to take any steps to avoid a recurrence of a similar situation. A reasonable and prudent person working in and committed to the field of animal rights would have considered it a grave situation when animal were euthanized contrary to the employer's standards, when the decision to euthanize was incorrectly attributed to her, and her reputation in the animal rights community and within the employer's organization was thereby undermined. A reasonable and prudent person would have considered that a grave situation for which she had no alternatives other than to leave work when the employer did not respond to her email seeking assurances that it had taken or would take some steps to correct what had happened in the past.

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

**DECISION:** Hearing Decision 16-UI-57419 is affirmed.

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

**DATE of Service: June 16, 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.