

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0548

Reversed
No Disqualification

PROCEDURAL HISTORY: On February 3, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 101035). Claimant filed a timely request for hearing. On March 1, ALJ Shoemake conducted a hearing, and on March 2, 2016 issued Hearing Decision 16-UI-54314, affirming the administrative decision. On March 8, 2016, claimant filed an application for review with the Employment Appeals Board (EAB). On April 4, 2016, EAB issued Appeals Board Decision 2016-EAB-0268, reversing Hearing Decision 16-UI-54314, and remanding the matter to the ALJ for further development of the record. On April 28, 2016, ALJ Shoemake conducted a hearing, and on May 3, 2016, issued Hearing Decision 16-UI-58715, concluding that claimant voluntarily left work without good cause. On May 11, 2016, claimant filed an application for review of Hearing Decision 16-UI-58715 with EAB.

FINDINGS OF FACT: (1) United Parcel Service (UPS) employed claimant as an on call temporary package helper on December 7 and 8, 2015. The job paid \$10 per hour, and the employer did not guarantee claimant any particular amount of work.

(2) On December 7, 2015, another driver hit claimant's car. The accident damaged the hatch back door to the car and the rear passenger quarter panel. Claimant was able to drive the car after the accident, but it was not safe to do so. In addition to the damage to the body of the car that resulted from the accident, claimant's car had bald tires, brakes that needed new pads and resurfaced rotors, and a belt that needed to be replaced.

(3) Also on December 7, 2015, claimant reported to the employer's Coos Bay officer for an orientation. Claimant and four other new employees waited for the employee assigned to conduct the orientation, but the employee never arrived. Eventually, another employee told claimant and the other new employees to sign a form and go home. While she was waiting for the orientation, claimant talked with another employee and learned that her work as a temporary package helper would require that she drive her personal vehicle to meet UPS drivers in various locations throughout southern Oregon. Claimant

discovered that she would be expected to travel at least 35 to 45 minutes to meet the drivers with whom she was expected to work.

(4) After leaving the orientation, claimant investigated the possibility of renting a car, but the cost was too high. Claimant had been unsuccessful in attempting to obtain a bank loan or a loan from her mother to pay for repairs to her car. Money to pay for a rented car was therefore unobtainable from these sources. Although claimant could have arranged to borrow a car on an intermittent basis, she was unable to arrange for the loan of a car on a consistent, daily basis.

(5) On December 8, 2015, claimant contacted a manager at UPS. She spoke with the manager about her concerns in regard to driving her own car outside to meet drivers and asked if the drivers she would be assigned to assist could pick her up in Coos Bay, where claimant lived. The manager responded that this was not possible. Claimant then told the manager she was unable to accept a position as a temporary package helper because she was looking for a full time, permanent position. Claimant did not tell the manager the real reason she was voluntarily leaving her position, which was because she did not have safe or regular transportation to the locations where she would be required to meet UPS drivers. Claimant hoped to be hired for a full time, permanent position at UPS and did not want to jeopardize her chances of obtaining a full time position by appearing to be unreliable. Claimant did not work as a temporary package helper at UPS after December 8, 2015.

(6) On or about December 14, 2015, claimant took her car to an automobile repair shop. The car was in the shop undergoing repairs for damage caused by the December 7 accident for approximately one month.

CONCLUSION AND REASONS: We disagree with the ALJ, and conclude that 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.

At the time claimant quit her position as an on call package helper with UPS, she had no transportation, a requirement of her job. Claimant’s car had sustained body damage in an accident that was severe enough that the car was unsafe to drive; the car eventually required extensive repairs that took a month to complete. The condition of claimant’s car created a grave situation for her. Claimant explored various options in an effort to keep her job, but could not afford the cost of renting a car, and could not have obtained a loan from a bank or her mother to pay for car rental. Claimant was also unable to arrange to borrow a car on a daily basis. A reasonable and prudent person, with a car as badly damaged as claimant’s car was, would conclude that she had no alternative but to quit a job that required use of a car.

Claimant voluntarily left work with good cause. She is not disqualified from the receipt of unemployment benefits based on this work separation.

DECISION: Hearing Decision 16-UI-58715 is set aside, as outlined above.

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

DATE of Service: June 10, 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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