

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0591

Affirmed
Disqualification

PROCEDURAL HISTORY: On April 18, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 152107). Claimant filed a timely request for hearing. On May 6, 2016, ALJ Wipperman conducted a hearing, and on May 13, 2016 issued Hearing Decision 16-UI-59583, affirming the Department's decision. On May 17, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Target Corporation employed claimant, last as a senior team leader, from February 21, 1991 to April 1, 2016.

(2) In claimant's approximately 25 years of employment, he had been given positive recognition for his work performance. He customarily had positive relationships with store management team. Claimant had been experiencing an increasing amount of stress and pressure he attributed to treatment by the employer's most recent store management team. He grew to feel as though he was not valued, was not supported by store management, and he felt that he was unable to perform his job well enough to meet the store manager's expectations.

(3) During a reorganization in approximately early 2016, claimant's manager asked him about his preferences for reassignment. Claimant said he would be comfortable working anywhere except the checkout department. Once the reorganization was complete, the manager assigned claimant as team leader of the checkout department. Claimant was concerned that the employer assigned him as a team leader in an area of the store he had identified as his least comfortable area.

(4) In approximately February 2016, claimant spoke with his manager about his employment. Claimant told the manager that he felt worn out and that he was physically breaking down, and he asked to step

down. The manager told claimant he could not step down out of a team lead position. Claimant did not pursue a demotion after that conversation.

(5) On March 16, 2016, the employer issued claimant a warning. The form included a space in which the employer could specify the type of warning being issued. The employer selected "counseling" and left the space designated for "final" blank. The warning stated that claimant's leadership over previous months had not met expectations in the areas of managing talent and execution, and included details about approximately nine incidents between November 3, 2015 and February 20, 2016 that prompted the warning. The warning provided claimant with a one month performance improvement period.

(6) Claimant had never before received that type of a warning. He understood the employer's expectation was that managers present employees with one-page warnings immediately after an issue occurred so that it could be promptly corrected. Claimant was concerned the employer had collected incidents over a four-month period and presented him with a multi-page warning. He was also concerned about the expectation that he correct the items listed within a one-month period of time. Claimant felt as though store management was trying to force him to leave his job.

(7) Claimant had accumulated a variety of concerns about his working conditions in the months preceding March 2016, including the effect his duties had on his body, feeling worn out, his ability to take breaks, and concerns about his rate of pay and eligibility for pay raises. He felt that the March 16th warning was issued because the employer's store management was trying to set him up for failure and make it impossible for him to meet the employer's expectations, and decided to quit work. Claimant gave the employer two week's notice of his intent to quit, and quit effective April 1, 2016.

CONCLUSIONS AND REASONS: We agree with the ALJ 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.¹ 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 did not establish that the circumstances that prompted him to quit work when he did were so grave that a similarly situated person would conclude he had no reasonable alternative but to quit. Claimant did not identify any concern, be it his concern over breaks, his wages, the effect of physically taxing work on him, the warning, or his concern that the employer's store management team was trying to pressure him into leaving, that, individually or considered as a whole, constituted a situation of such

¹ Claimant testified generally that he felt worn out and that his body was breaking down, but he did not specify that he had any specific long-term or permanent physical or mental impairments that caused him to quit work when he did, nor did he claim to have quit his job because of the effect it had on any specific long-term or permanent physical or mental impairment. Therefore, we applied the standard of a reasonable and prudent person without impairment when reaching this decision.

immediate gravity that he had to quit work. It does not appear that his job was in imminent jeopardy based on the written counseling the employer gave him. Claimant clearly communicated during the hearing that he was frustrated and upset at the way he was being treated by store management, and earnestly concerned about the effect the warning was going to have on his employment. For purposes of unemployment insurance, however, claimant must establish that those working conditions were so grave that no reasonable and prudent person enduring the same or similar conditions would have continued working past April 1, 2016. The record in this case does not support that conclusion. We therefore conclude that claimant quit work without good cause, and is disqualified from receiving unemployment insurance benefits because of this work separation.

DECISION: Hearing Decision 16-UI-59583 is affirmed.

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

DATE of Service: June 20, 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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