

**EMPLOYMENT APPEALS BOARD DECISION**  
**2016-EAB-0710**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On April 26, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant had not committed a disqualifying act (decision # 82421). The employer filed a timely request for hearing. On May 26, 2016, ALJ Monroe conducted a hearing in which claimant did not participate, and on June 1, 2016, issued Hearing Decision 16-UI-60772, concluding that claimant voluntarily left work without good cause. On June 11, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

In his written argument, claimant provided information about the reasons for his work separation. Under OAR 471-041-0090 (October 29, 2006), EAB may consider new information if the party presenting the information demonstrates that circumstances beyond the party's reasonable control prevented the party from offering the information at the hearing. In support of his request, claimant stated that "on the day of the hearing I was either at physical therapy or at the doctor. I had every intention of being at the hearing." Claimant failed to present any specific information about what appointment he had on the day of the hearing, when the appointment was scheduled, and how specifically the appointment prevented him from either appearing at the hearing or, if he could not attend the hearing, requesting a postponement. Without these details, we have no basis for concluding that circumstances beyond claimant's reasonable control prevented him from participating in the hearing. Claimant's request to present new information is therefore denied, and we considered only information received into evidence at the hearing in reaching this decision. *See* ORS 657.275(2).

**FINDINGS OF FACT:** (1) Express Services, a temporary employment agency, employed claimant from November 10 through December 11, 2015. The employer last assigned claimant to work as a general laborer at Douglas County Forest Products.

(2) On or about December 11, 2015, claimant notified the employer that he was quitting work for Douglas County Forest Products because he had a sore wrist that made it uncomfortable for him to perform his job duties. At the time claimant left his work assignment, continuing work for Douglas County Forest Products was available.

**CONCLUSION AND REASONS:** We agree with the ALJ and conclude that claimant voluntarily left work without good cause.

In the case of individuals working for temporary agencies or employee leasing companies, the employment relationship is deemed severed at the time that a work assignment ends. OAR 471-030-0038(1)(a) (August 3, 2011). Claimant worked for a temporary employment agency. Therefore, for purposes of determining whether he should be disqualified from receiving unemployment benefits, his employment relationship with the temporary employment agency was severed when he ended the assignment to Douglas Forest Products by quitting his work for that company.

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. OAR 471-030-0038(4) (August 3, 2011). The standard is objective. *McDowell v. Employment Department*, 348 Or 605, 612, 236 P2d 722 (2010). An individual who has a permanent or long-term “physical or mental impairment” as defined at 29 CFR §1630.2(h) who quits work must show that no reasonable and prudent person with the characteristics and qualities of an individual with such impairment would have continued to work for his employer for an additional period of time. Because the record contains no evidence that claimant’s sore wrist constituted a permanent or long-term impairment, we will analyze claimant’s decision to leave work for Douglas Forest Products under the more general standard.

Claimant’s difficulty performing his job duties for Douglas Forest Products because of a problem with his wrist constituted a grave situation. Claimant failed to demonstrate by a preponderance of evidence that he had no reasonable alternative available to him other than quitting his assignment, however. Claimant could have sought a medical diagnosis and treatment for his injury or condition. Depending on the outcome of the diagnosis, claimant could then have asked Douglas Forest Products to accommodate his condition or, if appropriate, asked for time off from work to allow his wrist to heal. The record fails to show that claimant acted as a reasonable and prudent person would have by failing to pursue these options before concluding he had no alternative but to quit his work assignment.

Claimant voluntarily left work without good cause. He is disqualified from the receipt of unemployment benefits on the basis of this work separation.

**DECISION:** Hearing Decision 16-UI-60772 is affirmed.

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

**DATE of Service:** July 19, 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.

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