

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0751

Affirmed
Disqualification

PROCEDURAL HISTORY: On April 25, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 141756). Claimant filed a timely request for hearing. On May 26, 2016, ALJ Frank conducted a hearing, and on June 3, 2016, issued Hearing Decision 16-UI-60984, affirming the administrative decision. On June 23, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

The employer failed to certify that it provided a copy of its argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). The argument also contained information that was not part of the hearing record, and failed to show that factors or circumstances beyond the employer's reasonable control prevented the employer from offering the information during the hearing as required by OAR 471-041-0090 (October 29, 2006). We considered only information received into evidence at the hearing when reaching this decision. *See* ORS 657.275(2).

FINDINGS OF FACT: (1) In Line Construction employed claimant as an accounting assistant from December 9, 2013 until March 14, 2016.

(2) On March 7, 2016, claimant returned to work after taking 11 days of leave on account of the death of her father.

(3) From March 7 through 10, 2016, claimant reported to work for the employer. Claimant was very unhappy with the way in which her supervisor, the employer's controller, treated her. The controller often criticized the speed at which claimant was working, and regularly made suggestions to claimant about how she could perform her work more quickly. Claimant never talked with the controller about her dissatisfaction with the way she was being treated.

(4) On March 11, 2016, claimant sent her supervisor an email in which she said she would not be reporting for work on that day.

(5) On March 14, 2016, claimant sent her supervisor an email in which she said that she was quitting her job, effective immediately. Claimant left work for the employer because she believed the controller had verbally abused her.

CONCLUSION 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.

Claimant quit work due to the behavior of her supervisor, the employer’s comptroller. At hearing, claimant asserted that the comptroller engaged in “negative behavior” and “verbally abused” her during the last four days she worked for the employer. Audio record at 8:40, 9:25. In support of her assertion, claimant testified that the comptroller repeatedly corrected claimant’s work, telling claimant that “we don’t have time for that,” and making other criticisms of her work. Audio recording at 10:36. The behavior that claimant described, while it may have upset claimant, was not so egregious that it would cause a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, to conclude that she had no reasonable alternative but to quit her job.

Nor did claimant make any attempt to resolve the situation with the comptroller. She never told the comptroller that she considered the comptroller’s behavior to be abrasive or harsh. Had claimant done so, the comptroller would have talked with claimant and explained the reasons for her corrections and suggestions – she was trying to help claimant work more efficiently so claimant could catch up with the work assignments that had accumulated during claimant’s 11 day absence. Audio recording at 22:25.

Claimant failed to demonstrate that she faced a grave situation that left her no reasonable alternative but to leave work. She therefore did not establish that she had good cause to quit her job, and is disqualified from the receipt of unemployment benefits on the basis of this work separation.

DECISION: Hearing Decision 16-UI-60984 is affirmed.

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

DATE of Service: July 29, 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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