

**EMPLOYMENT APPEALS BOARD DECISION**  
**2016-EAB-0760**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On May 18, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 140711). Claimant filed a timely request for hearing. On June 3, 2016, ALJ Wyatt conducted a hearing, and on June 10, 2016 issued Hearing Decision 16-UI-61576, affirming the Department's decision. On June 24, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

EAB considered claimant's written argument when reaching this decision.

**FINDINGS OF FACT:** (1) Cascade Animal Clinic, LLC employed claimant as a veterinary assistant from April 20, 2012 to April 16, 2016.

(2) Claimant and one of the employer's veterinarians did not get along. Claimant felt the veterinarian was overly critical, rude, demanding and difficult to work with. In February 2016, claimant and the veterinarian had an interaction during which the veterinarian threw a needle within a few inches of claimant's hand then stormed out of the room, which caused "a relatively short period " of "iciness" between them. Transcript at 26.

(3) In March 2016, claimant also felt the employer's owner was behaving unprofessionally by having "fits" and "a tantrum." Transcript at 28. Because of the owner's and veterinarian's behavior, claimant felt that she needed to quit her job, and notified the employer she would leave in two weeks. The owner spoke with claimant about her resignation, offered to allow her to change her duties, and claimant decided to continue working for the employer.

(4) On April 7, 2016, claimant and the veterinarian had a disagreement. On April 8, 2016, the owner told claimant that the veterinarian had refused to continue working with claimant. The owner told claimant that, thereafter, claimant would work only with the owner and do the ordering for the employer's clinics. Claimant felt "a little relieved," but concerned about her job. Transcript at 10. The owner intended to keep claimant's schedule as close to full time as possible while still separating

claimant and the veterinarian so they did not work together. Claimant felt uncertain about the effect the change would have on her hours and thought the employer had significantly reduced her hours. She was also concerned that the veterinarian's refusal to work with her could cause problems with the employer's appointment schedule.

(5) After that point, the veterinarian stopped interacting and communicating with claimant and ignored her when she attempted to communicate with him. Claimant thought the situation with the veterinarian was untenable, and felt she could not perform her job if that veterinarian was going to ignore her. The owner was aware of the situation between claimant and the veterinarian, considered both to share responsibility for it, and, although claimant was not aware of it, the owner was in the process of disciplining the veterinarian.

(6) On April 14, 2016, claimant told the employer that she was going to quit because "it was not a workable situation." Transcript at 26. Claimant agreed to work through April 16, 2016. On April 15, 2016, claimant heard the veterinarian make a "snarky remark." Transcript at 48. Claimant "lost it" and left work before her shift ended. Transcript at 48. Claimant returned to work on April 16, 2016, completed her shift, and, effective the end of the shift, quit work.

(7) The owner had previously asked claimant to agree to transfer to the employer's other clinic for approximately six weeks during another employee's medical leave. Claimant had refused, stating that "there was no window," "[i]t's too claustrophobic," and that she did not want to work there on a daily basis. Transcript at 34-35. Because claimant had refused a temporary transfer to the other clinic, the owner did not offer claimant a permanent transfer to that clinic as an alternative to quitting.

**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 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 record shows that claimant had an untenable relationship with the veterinarian at the time she quit work. However, claimant was aware that the employer had another clinic to which she might be able to transfer. Rather than expressing an interest in transferring, or asking the owner to transfer her, however, claimant chose to quit work. Seeking a transfer to the other clinic was a reasonable alternative to quitting work under the circumstances. The veterinarian with whom claimant did not get along did not work at the other clinic, so a transfer could resolve the immediate concerns that were prompting her to quit. Although claimant did not like the lack of windows and "claustrophobic" feeling at the clinic, she did not mention any circumstance that would prevent her from tolerating that type of working environment and, in fact, sometimes work parts of her shifts at that location. The employer's failure to

offer or suggest a transfer to claimant in this case does not mean that seeking a transfer was an unreasonable or futile alternative to quitting work. Claimant was aware of the other clinic and aware of the possibility of a transfer opportunity since the owner had previously offered claimant a temporary transfer opportunity which claimant had specifically rejected. Claimant therefore reasonably should have asked about it as an alternative to quitting work.<sup>1</sup>

We conclude that claimant did not establish that her reason for quitting work was such that a reasonable and prudent person of normal sensitivity would feel that the circumstances were so grave that no reasonable alternative to quitting work existed, and, therefore, that she quit work without good cause. Claimant is disqualified from receiving unemployment insurance benefits because of this work separation.

**DECISION:** Hearing Decision 16-UI-61576 is affirmed.

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

**DATE of Service: July 28, 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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<sup>1</sup> Claimant also alleged she quit over the employer's failure to provide breaks. However, claimant did not show that the employer did not allow breaks. Claimant testified that some employees did take breaks and she chose not to because she felt the employer was understaffed and she was "very dedicated." Transcript at 30. Claimant testified, in essence, that the employer did not encourage people to take breaks and did not have a "zone" where people could take breaks, there was always work to do and interruptions, but also said "you could have sat down and take a break. I did." Transcript at 30-31. On this record, claimant did not establish that the employer would not allow her to take breaks, or that she gave the employer a reasonable opportunity to address her concerns. Moreover, claimant did not decide to quit work until after the veterinarian refused to work with her and began ignoring her, making that the proximate cause of her decision to quit work.