

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0788

Affirmed
No Disqualification

PROCEDURAL HISTORY: On May 27, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 173605). Claimant filed a timely request for hearing. On June 21, 2016, ALJ Shoemake conducted a hearing, and on June 27, 2016 issued Hearing Decision 16-UI-62606, concluding claimant quit work with good cause. On July 1, 2016, the employer filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Auntie Anne's Pretzel employed claimant from 2012 to February 25, 2016.

(2) Claimant's fiancé accepted a transfer from her employer from the vicinity of the employer's business to Eatonville, Washington, located approximately 250 miles away. Claimant's fiancé was his domestic partner. The resided together, had a child together, and were expecting a second child.

(3) In January 2016, claimant notified the employer that he planned to leave work on February 25, 2016 to move with his fiancé to Washington. The employer did not have any locations in the vicinity of claimant's new residence. Effective February 25, 2016, claimant quit work to relocate with his fiancé due to a change in the location of his fiancé's employment.

CONCLUSIONS AND REASONS: We agree with the ALJ that claimant quit work with 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). OAR 471-030-0038(5)(g) states, "Leaving work with good cause includes . . . leaving work due to compelling family reasons." OAR 471-030-0038(1)(e) provides, in pertinent part, that "compelling family reasons" includes "[t]he need to accompany the individual's spouse or domestic partner" to "a place from which it is impractical . . . to commute" "[d]ue to a change in location of the . . . domestic partner's employment."

Claimant quit work to relocate with his fiancé due to a change in the location of his fiancé's employment. Claimant could not retain his employment and commute to work from his new residence because it was 250 miles away, and the employer did not have any transfer opportunities within commuting distance of claimant's new residence. We therefore conclude that claimant quit work with good cause for compelling family reasons. He is not disqualified from receiving unemployment insurance benefits because of his work separation.

DECISION: Hearing Decision 16-UI-62606 is affirmed.

Susan Rossiter and J. S. Cromwell;
D. P. Hettle, 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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