

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0797

Reversed
No Disqualification

PROCEDURAL HISTORY: On May 24, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 93526). Claimant filed a timely request for hearing. On June 16, 2016, ALJ Murdock conducted a hearing, and on June 22, 2016 issued Hearing Decision 16-UI-62345, affirming the Department's decision. On July 7, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

EAB considered claimant's argument to the extent it was relevant and based on the hearing record.

FINDINGS OF FACT: (1) Galt Foundation employed claimant as a contract specialist from December 10, 2015 to April 8, 2016.

(2) In 2000, claimant was diagnosed with depression and anxiety. She received medical treatment and was prescribed medication to treat her conditions. The symptoms of claimant's conditions were well-controlled when she began working for the employer.

(3) Claimant's work environment was stressful for her. She had a heavy workload and felt many demands and responsibilities because of her job. Two coworkers responsible for training or aiding claimant did not get along. They gave her contradictory instructions and made many negative comments about each other to her.

(4) In mid-March 2016, claimant's symptoms "snuck up on" her.¹ She experienced distorted thinking. She had difficulty concentrating, making decisions, remembering things and relating to others. She felt she was not capable of functioning at work or performing her job. She experienced headaches, felt irritable, and was worried she would react negatively to her coworkers.

¹ Audio recording at 5:25.

(5) Claimant did not want to complain about her coworkers because her conditions caused her to feel fearful of their reactions and fearful of retaliation. She "withdrew into herself" and was concerned that if she complained about anything it would reflect poorly on her, she would be "judged," and the employer would conclude she lacked capability to do her job.²

(6) By late March 2016, claimant's depression and anxiety had "exploded."³ She thought "the worst," "jump[ed] to conclusions," and thought "everything bad's going to happen."⁴ She was "living in [her] mind," felt incapable of functioning, scared, fearful, hopeless, did not know how to act, and "just reacted."⁵

(7) Claimant stayed home from work a couple of days experiencing symptoms of deep depression. Around that time, she concluded she could no longer "cope" and gave the employer two weeks notice of her intent to quit work.⁶ After giving notice, claimant stayed home ill for approximately one week. She reported to work during the last week of her notice period and "white-knuckled it."⁷ During that week, claimant's symptoms worsened, her health deteriorated, and she was unable to perform her job as well as she previously had.

(8) The employer had leave options available to claimant. Claimant was not aware of the employer's leave options and in her distorted thinking it did not occur to her to ask about taking a leave of absence from her job. The employer offered to reduce claimant's hours as an alternative to quitting, but claimant refused the offer because she felt unable to cope with her job any longer.

(9) Effective April 8, 2016, claimant quit work. At some point after quitting work claimant's symptoms began to abate and she realized her thought processes around the time she gave notice and quit work were "distorted."⁸ At the time of those events, however, claimant's mental state was affected by symptoms of deep depression, she was unable to think rationally about her situation, and she "just reacted."

CONCLUSIONS AND REASONS: We disagree with the ALJ and conclude claimant quit work with 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 P2d 722 (2010). Claimant had depression and anxiety, which may be considered permanent or long-term "physical or mental impairments" under 29 CFR §1630.2(h). A

² Audio recording at 7:40, 8:00, 8:35.

³ Audio recording at 7:00.

⁴ Audio recording at 10:50.

⁵ Audio recording at 4:25, 12:20, 13:00.

⁶ Audio recording at 5:50.

⁷ Audio recording at 11:40.

⁸ Audio recording at 4:35.

claimant with that impairment 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 her employer for an additional period of time.

The ALJ concluded claimant quit work without good cause because although she arguably had long-term or permanent impairments and quit work because of symptoms of them, "she did not consult a health care professional before quitting work," "did not request a medical leave of absence," and a "reasonable and prudent person with the characteristics and qualities of an individual with depression and anxiety would have sought such alternatives to quitting work before determining that it was futile to continue the employment relationship."⁹ We disagree.

The record shows that it is more likely than not that at the time claimant submitted her resignation and quit work, her mental state was deeply affected by symptoms of her depression and anxiety. She was unable to rationally process her situation. Given that claimant's symptoms, which had been well-controlled by her medication, had "snuck up on" her and "exploded," it appears more likely than not that claimant was not conscious that her thought processes were so disturbed or affected at the time of the events at issue such that she was capable of realizing that she needed additional medical treatment. An individual with the characteristics and qualities of someone experiencing the distorted thinking associated with deep depression and anxiety would, more likely than not, fail to realize that she had alternatives to quitting and "just react" as claimant did. We therefore conclude that claimant quit work with good cause, and is not disqualified from receiving unemployment insurance benefits because of her work separation.

DECISION: Hearing Decision 16-UI-62345 is set aside, as outlined above.¹⁰

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

DATE of Service: August 3, 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.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveymonkey.com/s/5WQXNJH>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.

⁹ Hearing Decision 16-UI-62345 at 3.

¹⁰ This decision reverses a hearing decision that denied benefits. Please note that payment of any benefits, if owed, may take from several days to two weeks for the Department to complete.