

**EMPLOYMENT APPEALS BOARD DECISION**  
**2016-EAB-0819**

*Reversed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On June 7, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 135330). Claimant filed a timely request for hearing. On June 30, 2016, ALJ Jarry conducted a hearing, and on July 1, 2016 issued Hearing Decision 16-UI-63040, affirming the Department's decision. On July 8, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Department of Human Services employed claimant as an intake worker from April 1, 2014 to May 9, 2016.

(2) Claimant has chronic anxiety. She was diagnosed in late 2015 and has received treatment for it since, including counseling and medications.

(3) The employer was dissatisfied with claimant's job performance. Claimant experienced stress and symptoms of anxiety at work. She had safety concerns about some aspects of her work that increased her stress levels and anxiety. Claimant spoke with her supervisor, who was also her union representative, about her anxiety and felt the supervisor was not supportive of her or responsive to her safety concerns. Claimant sought other work with the employer but no suitable positions were available.

(4) On May 3, 2016, the employer conducted a fact finding meeting. Claimant had a panic attack because of the meeting. She went to urgent care because the panic attack was so severe she felt she might be having a heart attack. The doctor claimant saw gave her a note releasing her from work for one week. On May 5, 2016, claimant sought follow-up care from her primary physician. During that appointment, claimant's primary physician recommended she quit her job immediately.

(5) Effective May 9, 2016, claimant quit her job, effective immediately, per her doctor's recommendation.

**CONCLUSIONS AND REASONS:** We disagree with the Department and 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 chronic anxiety, a permanent or long-term "physical or mental impairment" as defined at 29 CFR §1630.2(h). A 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 reasoned that, although claimant's anxiety was a long-term or permanent impairment, her work affected her mental health, she sought other positions with the employer that she could do, and her doctor had advised her to quit, claimant nevertheless did not have good cause to quit work because "she took no other action," such as seeking "accommodation from the employer" or notifying "human resources or anyone with authority over her supervisor" about her anxiety. Hearing Decision 16-UI-63040 at 3. We disagree.

Before claimant's last day of work, she had made some attempts to improve her ability to cope with her working conditions by getting medical treatment for her anxiety, speaking with her supervisor, and seeking other jobs that she might be better suited to perform. It appears on this record that it might have been reasonable to expect claimant to continue making such efforts had it not been for her May 3, 2016 panic attack at work. At the point that claimant experienced a health crisis at work so severe that she felt she was having a heart attack and required urgent medical treatment it was no longer reasonable to expect her to make continued efforts to improve or cope with her working conditions. No such reasonable and prudent person with the characteristics and qualities of an individual with chronic anxiety, especially once advised by her regular physician to quit work immediately, would have continued to work for her employer for any additional period of time. Claimant therefore showed that she had good cause for quitting work when she did, and she is not disqualified from receiving unemployment insurance benefits because of this work separation.

**DECISION:** Hearing Decision 16-UI-63040 is set aside, as outlined above.

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

**DATE of Service:** August 5, 2016

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

**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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