

**EMPLOYMENT APPEALS BOARD DECISION**  
**2016-EAB-0911**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On June 11, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 91947). Claimant filed a timely request for hearing. On July 19, 2016, ALJ R. Frank conducted a hearing, and on July 20, 2016 issued Hearing Decision 16-UI-64114, affirming the Department's decision. On August 5, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) McDonalds of Roseburg employed claimant as head of maintenance from December 1, 2010 to April 14, 2016.

(2) Claimant held himself to high standards of cleanliness. He felt that others did not meet his standards. He frequently returned to work after his days off to find that the facilities were dirtier than when he had left it. He also felt that the employer neglected repairs and did not promptly replace malfunctioning equipment.

(3) Claimant's coworkers sometimes complained to the employer that claimant had been mean or rude to them. Coworkers referred to claimant as an "asshole," "douchebag" or "a mean [person]." Audio recording at ~11:35. Claimant felt these complaints were unwarranted. Claimant also heard that employees were warning each other about claimant's behavior. He felt that those warnings were unfounded and that the practice was unfair. Claimant complained to the manager about his coworkers' comments. The manager held meetings with groups of coworkers to address their behavior toward claimant, although claimant was not aware of those meetings or that the manager was addressing his complaints.

(4) On April 13, 2016, claimant worked with two new employees. The employees told claimant that management had warned them about claimant and had called claimant an "asshole." Audio recording at ~7:58. The employees' claims were untrue, and management had not warned them or used foul language to refer to him. Claimant did not contact the manager to ask whether the employees' claims were true. Claimant decided to quit his job.

(5) On April 14, 2016, claimant sent the employer a text message stating that he quit work.

**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 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). “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).<sup>1</sup> 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 his employer for an additional period of time.

Claimant was unhappy with his working conditions for many reasons, including the inability of the employer to hire weekend maintenance workers that were capable of meeting his high standards of cleanliness, the failure of the employer to promptly repair or replace malfunctioning equipment, and his coworkers’ use of derogatory terms to describe him. He did not decide to quit work over his working conditions, however, until he heard from two new employees that his manager had warned them about claimant and referred to him as an “asshole.” That incident was, therefore, the proximate cause of claimant’s voluntary leaving, and the focus of the good cause analysis.

Although claimant believed the employees who reported that the manager had warned them about him and called him an “asshole,” the manager denied having done so, and the record as to whether that happened is therefore equally balanced. Where the evidence is equally balanced, the party with the burden of proof, here claimant, has failed to establish that incident occurred. No reasonable and prudent person would quit work over the manager’s alleged conduct -- calling claimant an “asshole and warning employees about him -- without first at least asking the manager if the employees’ claims were true. In particular, a reasonable and prudent person would make such an inquiry before quitting where, as here, there is no evidence that the manager had mistreated claimant in the past, the manager had historically responded to claimant’s complaints about his coworkers’ treatment of him, and the manager had attempted to correct their behavior.

Claimant voluntarily left work without good cause. He is, therefore, disqualified from receiving unemployment insurance benefits because of his work separation.

**DECISION:** Hearing Decision 16-UI-64114 is affirmed.

Susan Rossiter and J. S. Cromwell;

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<sup>1</sup> The employer’s witness testified that claimant had obsessive compulsive disorder, but claimant did not confirm whether he had a diagnosed health condition and the record fails to show whether claimant had a medical condition or whether the witness was using the term in a lay sense. We therefore applied the standard of a reasonable and prudent person without impairment. Had we applied the standard of a reasonable and prudent person with the characteristics and qualities of an individual with obsessive compulsive disorder, however, our decision would remain the same for the reasons explained.

D. P. Hettle, not participating.

**DATE of Service: August 26, 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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