

**EMPLOYMENT APPEALS BOARD DECISION**  
**2016-EAB-1077**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On August 11, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 171509). Claimant filed a timely request for hearing. On September 7, 2016, ALJ Triana conducted a hearing, and on September 9, 2016 issued Hearing Decision 16-UI-67183, affirming the Department's decision. On September 13, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Intel Corporation employed claimant, last as a coordinator, from August 31, 1998 to June 18, 2016.

(2) In May 2016, the employer announced plans to lay off 12,000 employees, slightly more than 10% of its workforce worldwide, by June 25, 2016. During the second and third weeks of May, the employer laid off underperforming workers. During the third week of May 2016, the employer offered voluntary severance and retirement packages to the remaining workers who qualified for them.

(3) The employer did not require any employees to accept either package. Employees who opted not to accept voluntary severance or retirement by June 2, 2016 were considered eligible for involuntary layoff until each of the employer's departments met their layoff quotas and the employer had laid off enough workers.

(4) The retirement incentive package was offered to workers whose ages and years of experience equaled 75. The package included a lump-sum payout of one year of salary, 18 months of COBRA eligibility, \$25,000 to cover medical insurance costs, and a \$1,000 "thank you" payment for accepting the package. Individuals who refused the package and were laid off anyway would receive only two months of pay and the standard 6 months of COBRA eligibility.

(5) Claimant qualified for the retirement package. Management "strongly urged" employees to accept the offer. Audio recording at ~10:40. Management refused to explain how they would choose which

employees to lay off in the event that not enough people accepted the voluntary severance or retirement packages. Claimant understood, though, that each department would have to meet a layoff quota. Claimant also understood that even employees with satisfactory work performances would be considered for layoff, and her manager could not guarantee she would remain employed if she did not accept the retirement package. Claimant believed she could be chosen for layoff because she was “just a coordinator.” Audio recording at ~ 11:05.

(6) On June 1, 2016, claimant accepted the retirement package. Claimant decided she would rather receive the incentive package (*i.e.* one year of pay, \$25,000 for insurance, etc.) than risk being laid off without benefit of the incentives. Claimant and her managers set the effective day of her resignation as June 18, 2016, and claimant did not work after that date.

**CONCLUSIONS AND REASONS:** We agree with the ALJ that claimant voluntarily left her job 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).

Claimant, along with the employer’s other workers, was under threat of possible layoff, and quit work to accept a retirement incentive package that included payment of 10 months of salary, 12 months additional COBRA eligibility, \$25,000 to cover out-of-pocket medical insurance costs, and a \$1,000 additional payment, none of which she would be eligible to receive if she opted not to take the retirement package and risked being laid off. However, the record fails to show that claimant faced a grave situation because of the possibility she could be laid off or risk of losing the incentives the employer offered her. Although the employer’s lay off plan affected a significant portion of its workers, almost 90% of its workforce would remain employed. Claimant testified that she was “just” a coordinator, but did not explain why she thought the nature of her job placed her at greater risk for layoff than other workers in her department, or establish that she was at an enhanced risk of layoff over others in her department because of other factor(s). It appears on this record that she had the same chance of being laid off as the employer’s other employees, and she did not describe any circumstance in her personal or professional life that made the risk or consequences of a layoff particularly grave for her. Generally speaking, to show good cause for leaving work claimant must show that no reasonable and prudent person would have continued to work for her employer for an additional period of time. While claimant clearly had incentives to accept the retirement package and may have acted in her own best interest by doing so, we cannot say that no reasonable and prudent person would have opted to reject the retirement package despite the risk of layoff. We therefore conclude that claimant quit work without good cause, and is disqualified from receiving unemployment insurance benefits because of her work separation.

**DECISION:** Hearing Decision 16-UI-67183 is affirmed.

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

**DATE of Service: October 6, 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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