

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-1246

Affirmed
Disqualification

PROCEDURAL HISTORY: On September 23, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause (decision # 82928). Claimant filed a timely request for hearing. On October 28, 2016, ALJ McGorin conducted a hearing and issued Hearing Decision 16-UI-70169, affirming the Department's decision. On November 5, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) ABL Management Inc. employed claimant from July 1, 2015 to July 22, 2016.

(2) Claimant lived and worked for the employer in Oregon, renting an apartment and paying for utilities. In April 2016, claimant was engaged to a woman who lived in California, making monthly mortgage payments on her home.

(3) Claimant and his fiancé were engaged to be married in December 2016. Claimant decided to move to California to live with his fiancé. On or about April 22, 2016, claimant notified the employer that he was quitting work, effective July 22, 2016.

(4) Claimant quit work to move to California to live with his fiancé.

CONCLUSIONS AND REASONS: We agree with the Department and the ALJ that claimant quit working for the employer 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). 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.

At hearing, claimant asserted that he quit work to move to California to live with his fiancé because they could not afford to maintain two households, claimant paying rent and utilities for his apartment, and his fiancé making monthly mortgage payments on her home. Audio Record at 5:15-6:15. However, claimant did not assert, and the record does not show, that the cost of remaining in Oregon, including paying rent and utilities, exceeded the pay he received working for the employer. Nor does the record show how living with his fiancé unemployed helped her make her monthly mortgage payments or otherwise improved her economic situation. Absent such showings, claimant failed to establish that he had no reasonable alternative but to move to California five months before he married his fiancé.

We therefore conclude that claimant quit working for the employer without good cause.

DECISION: Hearing Decision 16-UI-70169 is affirmed.

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

DATE of Service: November 23, 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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