

**EMPLOYMENT APPEALS BOARD DECISION**  
**2016-EAB-1266**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On September 19, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 75314). Claimant filed a timely request for hearing. On October 25, 2016, ALJ Triana conducted a hearing, and on November 1, 2016 issued Hearing Decision 16-UI-70308, affirming the Department's decision. On November 11, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

On November 14, 2016, claimant submitted new information to EAB that was not part of the hearing record. Claimant failed to certify that he provided a copy of the information to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006) or that factors or circumstances beyond claimant's reasonable control prevented claimant from offering the information during the hearing as required by OAR 471-041-0090 (October 29, 2006). For these reasons, we considered only information received into evidence at the hearing and the argument claimant submitted on November 23, 2016 when reaching this decision. *See* ORS 657.275(2).

**FINDINGS OF FACT:** (1) Claimant had experienced depression since at least 2013. On March 31, 2016, claimant's former employer discharged him after 32 years of employment. Claimant experienced increased symptoms of depression after he lost that job and began seeing a counselor for his symptoms shortly before May 17, 2016.

(2) Integrated Metal Components, Inc. (employer) hired claimant on May 17, 2016. Claimant worked as an assembly supervisor for the employer until he quit on July 28, 2016.

(3) Claimant was dissatisfied with the employees he supervised because they were "not easily motivated" and did not meet his production expectations. Audio Record at 7:25 to 7:35. Claimant had the authority to discipline the employees who failed to meet his expectations, but he preferred to coach employees and use discipline only for serious violations.

(4) Claimant complained to the production manager and the owner about his dissatisfaction regarding the poor production from his subordinates. The production manager and the owner advised claimant to be patient and continue to work to improve the employees' performance. Audio Record 15:34 to 16:55. The employer never disciplined claimant or told him that his job was in jeopardy.

(5) The employer's production manager was claimant's direct supervisor. In early July 2016, the production manager began weekly meetings with claimant, the assistant production manager and the employer's human resources generalist to discuss production and other employee matters. At the first meeting, claimant had a disagreement with the production manager because he told claimant that he should address complaints about his subordinates to the production manager, not to the owner. Claimant was dissatisfied that he was expected to refrain from complaining directly to the owner.

(6) Claimant had directed several of his subordinates to work overtime and begin work early on July 28, 2016 so they could complete certain projects by July 31, 2016. Claimant did not plan to quit work before he reported to work on July 28. When claimant arrived at work that day, he was upset to see that the employees had arrived at work early but had not completed the amount of work claimant expected them to complete.

(7) On July 28, 2016, claimant quit work because he believed that he was unable to motivate his subordinate employees and that their qualifications and work attitude prevented claimant from completing work projects in a timely manner.

**CONCLUSIONS AND REASONS:** We agree with the Department and the ALJ and conclude that claimant voluntarily left work without good cause.

A claimant who leaves work voluntarily is disqualified from the receipt of benefits unless he or she 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). Claimant had depression, a permanent or long-term "physical or mental impairment" as defined at 29 CFR §1630.2(h). A claimant with such an impairment who quits work must show that no reasonable and prudent person with the characteristics and qualities of an individual with depression would have continued to work for the employer for an additional period of time.

Claimant voluntarily left work because the employees he supervised were not meeting his production goals. Claimant felt the employees lacked the work ethic and qualifications for claimant to be able to motivate them to meet his production goals. The final incident occurred on July 28, 2016 when claimant arrived at work and saw that his subordinates had not completed the work he expected despite having been given overtime to do so. Although claimant's inability to motivate the employees was frustrating to claimant, the record does not show his coworkers were mistreating him at work or that his working conditions were causing him to feel increased symptoms of depression. Nor did claimant face discipline due to the employees' performance issues. Moreover, although claimant was dissatisfied with having to report to his supervisor and the human resources generalist about his personnel problems instead of to

the owner, the record shows he had the reasonable alternative of discussing the issues with them at their weekly meeting, and that it had not been futile to do so in the past. Claimant did not agree with his supervisor's advice to continue working to motivate the employees, but his supervisor's response reflected the owner's advice to claimant, which was that he continue working with the employees and "just be patient." Audio Record at 15:34 to 16:28.

Because the record fails to show that, more likely than not, no reasonable and prudent person with depression, under the conditions claimant described, would have continued working for the employer for an additional period of time, claimant did not show good cause for quitting work when he did. Claimant is, therefore, disqualified from receiving unemployment insurance benefits because of this work separation.

**DECISION:** Hearing Decision 16-UI-70308 is affirmed.

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

**DATE of Service: December 2, 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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