

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-1320

Affirmed
Disqualification

PROCEDURAL HISTORY: On September 29, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 93620). Claimant filed a timely request for hearing. On November 1, 2016, ALJ Murdock conducted a hearing, and on November 4, 2016, issued Hearing Decision 16-UI-70585, affirming the Department's decision. On November 22, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant submitted written argument to EAB that presented facts not offered into evidence during the hearing. Claimant did not explain why she was unable to present this information during the hearing, or otherwise show as required by OAR 471-041-0090 (October 29, 2006), that factors or circumstances beyond her reasonable control prevented her from doing so. Accordingly, EAB considered only information received into evidence at the hearing when reaching this decision.

FINDINGS OF FACT: (1) Personnel Source, Inc., a staffing agency, employed claimant from June 9, 2016 to July 28, 2016. Claimant was assigned to work for the employer at the offices of a client, Jackson County Human Health Services (JCHHS), as a part-time receptionist and administrative assistant.

(2) Prior to working at JCHHS, claimant's customary work consisted of secretarial and administrative positions in work environments with very few people. At the time she was assigned to JCHHS, a fast-paced environment visited by numerous mental health clients, claimant understood that the job involved scanning patient records, performing other administrative duties and relieving the full-time receptionist during the receptionist's lunch hour. She also understood the assignment consisted of three 8-hour days and was temporary, expected to last only two to three months. Claimant accepted the assignment given her understanding of the position.

(3) After only one week on the job, JCHHS made her the full-time receptionist. The position was stressful for claimant because it was fast-paced and required multi-tasking several office procedures concerning client check-ins, scheduling and canceling appointments, filling out forms and sending

emails in addition to answering the phones and interacting with mental health clients. She also was uncomfortable with her small work area and the effects that her work station had on her back and wrists.

(4) On July 7, 2016, claimant notified her recruiter with the employer that she wanted to end her assignment with JCHHS on July 28, 2016. Exhibit 1. She also spoke with the office manager at JCHHS about her intention to end the assignment to make sure the timing of her leaving would not be inconvenient to that agency, and would have worked longer if necessary. Audio Record ~ 15:00 to 15:45. On July 28, 2016, claimant ended her assignment with JCHHS because she considered the demands of the position difficult and physically and mentally stressful, and was “uncomfortable” and “not happy” with the work. Audio Record ~ 15:00 to 16:00; 36:00 to 36:25.

CONCLUSIONS AND REASONS: We agree with the Department and ALJ. Claimant voluntarily left work without good cause.

Where, as here, claimant worked for a temporary staffing agency, the employment relationship is deemed severed at the time the work assignment ends. OAR 471-030-0038(1)(a) (August 3, 2011). Claimant severed the employment relationship when she voluntarily ended her assignment with JCHHS on July 28, 2016.

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). A claimant who quits work must show that no reasonable and prudent person would have continued to work for her employer for an additional period of time.

As a preliminary matter, OAR 471-030-0038(4) modifies the standard for objectively demonstrating good cause for leaving work if a claimant demonstrates that she or he had a permanent or long-term physical or mental impairment at the time the decision was made to leave work. Although claimant asserted that she experienced physical and mental stress due to the work environment at JCHHS and her job duties there, she did not present any evidence that her stressors caused her to seek medical advice or treatment or that previously she had been treated for those conditions. Aside from vague testimony about the stress she experienced, and the back, wrist and neck pain caused by her work station, claimant did not describe any specific set of symptoms that might be associated with a recognized long-term health condition or impairment. Accordingly, there is insufficient evidence in the record to demonstrate that claimant had a long-term physical or mental impairment, or that claimant was entitled to use the modified standard for establishing good cause that is applied to a claimant with such impairment.

Claimant left JCHHS because she was “not happy” working there and “uncomfortable with the work.” Claimant failed to show good cause for leaving her assignment when she did for those reasons. Claimant left JCHHS seven weeks into the assignment expected to last only two to three months, did not present any evidence that she was advised to leave work or even treated by a health-care professional due to her work stressors, and testified at hearing that she would have stayed beyond the three weeks’

notice she gave both the employer and the client if the office manager at JCHHS would have told her that leaving on July 28 would have been inconvenient for the agency. Based on the last factor alone, the record shows that claimant was capable of continuing to work for the employer for an additional period of time. Accordingly, claimant failed to meet her burden to show that no reasonable and prudent person in her circumstances, interested in remaining employed, would have done so by continuing to work at JCHHS until the end of her temporary assignment.

Claimant voluntarily left work without good cause and is disqualified from receiving unemployment insurance benefits until she has earned four times her weekly benefit amount from work in subject employment.

DECISION: Hearing Decision 16-UI-70585 is affirmed.

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

DATE of Service: December 22, 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.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveymonkey.com/s/5WQXNJH>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.