

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-1381

Affirmed
Disqualification

PROCEDURAL HISTORY: On October 19, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 85146). Claimant filed a timely request for hearing. On November 22, 2016, ALJ S. Lee conducted a hearing at which the employer failed to appear, and on November 29, 2016 issued Hearing Decision 16-UI-71830, affirming the Department's decision. On December 6, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Jade Room Lounge employed claimant from October 15, 2004 until September 1, 2016 as a bartender.

(2) Before August 31, 2016, claimant had been working four shifts per week for the employer, totaling 30 hours per week. Claimant earned \$9.50 per hour, and occasional tips. She spent \$20 per shift for transportation to and from work.

(3) On August 31, 2016, the employer's owner reduced claimant's hours to one shift per week, totaling 7 or 8 hours of work per week. Claimant's wage rate remained the same.

(4) On September 1, 2016, claimant quit work because she was dissatisfied with the reduction in her hours after having working for the employer for 11 years.

CONCLUSIONS AND REASONS: We agree with the Department and the ALJ that claimant voluntarily left work 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). If an individual leaves work due to a reduction in hours, the

individual has left work without good cause unless continuing to work substantially interferes with the return to full time work or unless the cost of working exceeds the amount of remuneration received. OAR 471-030-0038(5)(e).

Claimant quit work on September 1, 2016 because the employer reduced her hours to 7 or 8 hours per week. Claimant asserted that she left work due to the reduction in hours because one shift was “not enough to survive by.” Audio Record at 8:08 to 8:16. The record does not show that continuing to work substantially interfered with claimant’s return to full time work. On the contrary, claimant testified that she did not consider if she would be able to look for work and continue working one shift per week for the employer before she quit. Audio Record at 10:58 to 11:09. Nor does the record show that the \$20 claimant spent to work one shift for the employer exceeded the \$66.50 she received in remuneration for that shift. For these reasons, we conclude that claimant did not show she had good cause to leave work due to a reduction in hours.

Claimant voluntarily left work without good cause. She is disqualified from the receipt of unemployment insurance benefits based on this work separation.

DECISION: Hearing Decision 16-UI-71830 is affirmed.

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

DATE of Service: January 10, 2017

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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