

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0014

Affirmed
Disqualification

PROCEDURAL HISTORY: On October 27, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 141134). Claimant filed a timely request for hearing. On December 16, 2016, ALJ Shoemake conducted a hearing, and on December 23, 2016, issued Hearing Decision 16-UI-73559, affirming the administrative decision. On December 29, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) From August 21, 2000 until September 27, 2016, the Estacada School District (District) employed claimant, last as secretary to a building principal.

(2) Sometime prior to September 2016, the principal for whom claimant worked criticized claimant's actions on three occasions. On one occasion, the principal criticized claimant for arranging a free lunch for a homeless child, even though the child's parents had not filled out the appropriate applications. On another occasion, the principal criticized claimant for missing a meeting; claimant missed the meeting because she had other work she needed to perform. Claimant believed that all three reprimands were unfair. Transcript at 28.

(3) On or about September 23, 2016, claimant and other District secretaries attended a training session at which the payroll coordinator instructed them on the use of a time clock. After the meeting, the payroll coordinator complained to the District human resources (HR) coordinator that claimant and others who attended the meeting had behaved in a discourteous and unprofessional manner. Transcript at 32-33.

(4) On September 26, 2016, claimant and her union representative met with the HR coordinator to investigate what occurred at the September 23 training session. Claimant denied that she had been discourteous or unprofessional during the meeting. Transcript at 13. The HR coordinator explained that because her investigation into what happened at the meeting was ongoing, claimant should not discuss

the investigation with anyone other than her union representative. The HR coordinator also explained that her investigation into the September 23 training session was unrelated to claimant's relationship with the principal for whom claimant worked, who wanted to meet with claimant to discuss claimant's performance. Transcript at 35.

(5) On September 27, 2016, the HR coordinator sent claimant an email directing claimant to meet with her and others at "central office" at 1 p.m. "to discuss performance and behavioral issues." Exhibit 1. Right before the meeting was scheduled to begin, claimant went to the HR coordinator's office and told the HR coordinator she was quitting. Claimant voluntarily left work because she believed that District administrators were harassing her by unfairly criticizing her performance and behavior.

CONCLUSION AND REASONS: We agree with 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 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.

Claimant quit her job because she believed that District administrators were harassing her by unfairly criticizing her work performance. The alleged harassment of which claimant complained consisted of three occasions on which her supervisor criticized her conduct and an investigation conducted by the HR coordinator into alleged unprofessional behavior of claimant and others during a training session. Although claimant testified that her work situation gave her an "upset stomach," it does not appear that physical problems were the primary reason she quit her job, or a significant factor in her decision to do so. Instead, claimant repeatedly mentioned accusations of poor performance she believed to be untrue as the reason why she quit her job. Transcript at 5, 7, 17, 18 and 19. We therefore find insufficient evidence in this record to find that claimant's health condition was a material factor in her decision to voluntarily leave work.

At the time claimant quit, neither her supervisor nor the HR coordinator had disciplined or proposed to discipline claimant for her conduct. The purpose of the September 27 meeting, which claimant refused to attend, was to coach and counsel claimant her about performance issues. Transcript at 41. While claimant, a long time District employee, was undoubtedly upset by criticism of her work performance, nothing in her description of the events that led to her decision to quit indicate that her interactions with the principal and HR coordinator constituted a grave situation. See e.g. *McPherson v. Employment Division*, 285 Or 541,557, 591 P2d 1381 (1979) (claimants not required to "sacrifice all other than economic objectives and *** endure racial, ethnic, or sexual slurs or personal abuse, for fear that abandoning an oppressive situation will disqualify the worker from unemployment benefits"). As part of a normal working environment, an employee can expect that her supervisor will identify any performance problems, and work with the employee to address these problems. A reasonable and

prudent employee would not conclude her supervisor's criticisms of her behavior on three occasions, and an investigation into her allegedly unprofessional behavior created circumstances so stressful that it left her no alternative but to quit her job. Claimant did not demonstrate that she had good cause to leave work when she did. She is therefore disqualified from the receipt of unemployment benefits on the basis of this work separation.

DECISION: Hearing Decision 16-UI-73559 is affirmed.

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

DATE of Service: January 26, 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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