

**EMPLOYMENT APPEALS BOARD DECISION**  
**2017-EAB-0056**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On November 18, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 61606). Claimant filed a timely request for hearing. On December 19, 2016, ALJ Kangas conducted a hearing, and on December 20, 2016, issued Hearing Decision 16-UI-73307, affirming the administrative decision. On January 1, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant failed to certify that she provided a copy of her argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). Therefore, we did not consider the argument when reaching this decision.

**FINDINGS OF FACT:** (1) From June 2010 until October 4, 2016, G.I. Trucking employed claimant as a pickup and delivery supervisor at its Eugene terminal. Claimant's job duties included scheduling the employer's delivery drivers. Claimant was a salaried employee and was hired with the expectation that she would work 50 hours a week.

(2) In approximately 2014, a coworker told claimant's manager that one of the drivers said that claimant did not know anything, and did nothing but "sit around and play with herself." Audio recording at 19:49. The manager told claimant about the remark, and contacted the employer's regional human resources (HR) manager. The HR manager investigated the incident. After completing her investigation, the HR manager told claimant that no action would be taken because she had found only hearsay evidence regarding the remark made about claimant. Audio recording at 18:15.

(3) In February 2016, the manager of the Eugene terminal abruptly quit his job. From the date on which the manager quit until a new manager was hired in July or August 2016, claimant worked 60-70 hours a week, managing the employer's Eugene and Medford terminals. During this time, the employer's district manager repeatedly criticized claimant's work, even though claimant reminded him that she was

performing a job in which she had no experience and for which she had not been hired. Audio recording at 14:52.

(4) Claimant's work environment did not improve when a newly hired terminal manager began work for the employer in July or August 2016. Claimant continued to work 60 or more hours per week, and the new manager repeatedly criticized her work. The new terminal manager told claimant that the district manager wanted to fire her, and had instructed him, the terminal manager, to watch claimant. Audio recording at 15:07. The terminal manager also told claimant that because the drivers complained about her, she needed to work weekends, to show the drivers she had "dedication" to her job. Audio recording at 27:45.

(5) On October 3, 2016, claimant returned from several days of vacation. She was expecting to take an additional day of vacation on October 4, but the terminal manager told her she would be needed at work and would have to cancel her vacation day. Audio recording at 12:54. The terminal manager also told claimant that the drivers had complained about her unavailability when she left her desk to go to lunch, and that in the future, she could not leave her desk for her lunch or rest breaks. Audio recording at 11:26.

(6) On October 4, 2016, claimant saw the terminal manager and the employer's lead driver talking and gesturing toward claimant's office in a manner she found threatening. Audio recording at 9:56. Although claimant could not hear what these two individuals were saying, a coworker told claimant that the manager and driver had been talking about her. The behavior of her supervisor and coworker upset claimant deeply and "pushed her over the edge." After going to her car and crying, claimant decided to leave her job. Audio recording at 12:31. Claimant sent the terminal manager a text message to tell him that she was quitting. Claimant quit her job because she could no longer tolerate the stress of her work environment.

(7) Claimant never contacted the employer's regional HR manager about her working conditions or the behavior of the terminal supervisor. Based on her previous experience with the HR manager's investigation of an inappropriate remark made about her, claimant believed the HR manager would take no action. Had claimant complained to the regional HR manager about her situation, the regional HR manager would have visited the terminal where claimant worked and investigated her complaint.

**CONCLUSION AND REASONS:** We disagree with the ALJ, and conclude that claimant voluntarily left work with 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 of the stressful work environment she was experiencing. At the time she quit, claimant faced a grave situation. She had been working 60 or more hours a week for several months, and no reduction in her work hours appeared to be forthcoming. To the contrary, she had been directed to work weekends, told she would no longer have duty free lunch or rest breaks, and ordered to cancel a planned vacation day because she was needed at work. In addition, she had faced repeated criticism of her work for several months, even when she was performing a job for which she had not been hired and in which she had no experience.

We conclude, however, that claimant had a reasonable alternative to leaving work when she did. Claimant could have complained to the employer's regional HR manager about her work environment and her supervisor's behavior. Claimant did not do so because she believed that the regional HR manager would do nothing. Her belief resulted from a 2014 investigation the HR manager made into an inappropriate remark a coworker made about claimant. The circumstances of the previous incident were quite different from the problems claimant encountered in 2016, however. The 2014 complaint resulted from an employee's comment which was not made to claimant, but made to or overheard by another employee. As a result, the HR manager had no direct, firsthand evidence of what had occurred. In 2016, however, claimant would have been able to provide the HR manager with her own personal account of the problems she was experiencing on the job – evidence far more substantial than that considered by the HR manager in 2014. A reasonable and prudent person, who was experiencing the same type of workplace stress as claimant, would not have concluded she had no alternative but to quit her job until after she had complained to the HR manager and determined that no satisfactory resolution of her problems could be achieved.

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

**DECISION:** Hearing Decision 16-UI-73307 is affirmed.

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

**DATE of Service:** February 1, 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](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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