

**EMPLOYMENT APPEALS BOARD DECISION**  
**2017-EAB-0116-R**

*EAB Decision 2017-EAB-0116 Adhered to on Reconsideration  
Disqualification*

**PROCEDURAL HISTORY:** On December 22, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant failed without good cause to accept suitable work when offered by the employer (decision # 114423). Claimant filed a timely request for hearing. On January 18, 2017, ALJ McGorin conducted a hearing, and on January 18, 2017 issued Hearing Decision 17-UI-74911, affirming the Department's decision. On January 27, 2017, claimant filed an application for review with the Employment Appeals Board (EAB). On February 13, 2017, claimant mailed a timely written argument to EAB. On February 14, 2017, EAB issued EAB Decision 2017-EAB-0116, affirming Hearing Decision 17-UI-74911. On February 16, 2017, EAB timely received claimant's written argument. EAB will exercise its discretion under ORS 657.290(3) to reconsider EAB Decision 2017-EAB-0116 to address claimant's timely written argument.

In his argument, as at hearing, claimant asserted that the employer, a temporary agency, did not require him to accept its offer to work for its client on the day at issue, and that claimant refused the offer to attend a job interview that day as part of his search for full time employment. However, the fact that the employer did not require claimant to accept its offer of work is not material to the issue in this case, whether claimant had "good cause" to refuse the employer's definite offer of suitable work, as required under ORS 657.176(2)(e) and defined under OAR 471-030-0038(6) (August 3, 2011).<sup>1</sup>

OAR 471-030-0038(6) provides that "good cause" is such that a reasonable and prudent person, exercising ordinary common sense, would refuse to accept suitable work when offered by the employer. A claimant who refuses work has the burden to show by a preponderance of evidence that no reasonable and prudent person would have accepted the work when offered. *Vail v. Employment Department*, 30 Or App 365, 567 P2d 129 (1977). Here, the record fails to show claimant could not have rescheduled his job interview. As explained in EAB Decision 2017-EAB-0116, claimant failed to show that no reasonable and prudent person would have accepted the employer's definite offer of suitable work, and rescheduled his job interview, which was for the mere possibility of work with an uncertain start date,

<sup>1</sup> See EAB Decision 2017-EAB-0116 at 1-2.

rate of pay, and end date.<sup>2</sup> EAB therefore did not err in concluding that claimant failed to establish good cause for failing to accept the employer's offer of work, and is disqualified from receiving benefits. EAB Decision 2017-EAB-0116 is adhered to on reconsideration.

**DECISION:** On reconsideration, Hearing Decision 17-UI-74911 is affirmed.

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

**DATE of Service:** February 24, 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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<sup>2</sup> EAB Decision 2017-EAB-0116 at 2.