

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0220

Affirmed
Disqualification

PROCEDURAL HISTORY: On January 5, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 91409). Claimant filed a timely request for hearing. On January 20, 2017, the Department served notice of an amended administrative decision changing the decision's denial date. Claimant filed a timely request for hearing on the amended decision. On February 7, 2017, ALJ Lewis conducted a hearing, and on February 8, 2017 issued Hearing Decision 17-UI-76457, affirming the Department's decision. On February 21, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Willamina Lumber Company employed claimant from 2004 until December 5, 2016, last as a production supervisor.

(2) On September 28, 2016, claimant began a medical leave of absence to undergo and recuperate from shoulder surgery. Claimant was scheduled to return to work to the same position on December 5, 2016.

(3) The employer discharged the plant manager shortly after claimant began his medical leave. The employer promoted another supervisor, who had supervised a different department than claimant, to the plant manager position. The plant manager supervised claimant's position. In early October 2016, the vice president of manufacturing called claimant while he was on medical leave to inform him who the employer had selected as the new plant manager. During the telephone call, claimant told the vice president that he was displeased with the employer's selection for plant manager and that the employer had not conducted an application process permitting claimant to apply for the position.

(4) Claimant met with the vice president later in October 2016 to discuss his concerns about the new plant manager due to disputes claimant had had with the other supervisor in the past regarding their differing management styles. Claimant told the vice president that he was concerned the new plant manager would use his new position to make claimant change his managing style. The vice president told claimant he would discuss claimant's concerns with the new plant manager and arrange a meeting

with claimant and the new plant manager. The vice president also told claimant he would look for transfer options within the company for claimant.

(5) At the end of November 2016, while claimant was still on medical leave, claimant met with the vice president and the new plant manager. During the meeting, the new plant manager stated that he disagreed with aspects of how claimant managed and disciplined his crew, and that he planned to remove claimant from a statewide supervisor training committee. The training committee position was not a paid position, but claimant believed it gave him an honor in his field. Claimant told the vice president that he would be unable to “do this” because he had “run his team” the way he wanted in the past and was “not going to be dictated on how [he did] things.” Audio Record at 20:42 to 20:57. The vice president ended the meeting after 25 minutes.

(6) Later that day after the meeting, the vice president told claimant that he and the new plant manager would have to find a way to work together. The employer had other plants where openings could occur in the future, but as of December 5, 2016, there were no immediate transfer options available for claimant within the company. Nor did the employer permit salaried employees, like claimant, to be demoted to non-salary positions.

(7) Claimant’s doctor released him to return to work on December 5, 2016. On December 5, claimant quit work because he was not willing to work with the new plant manager as his supervisor.

CONCLUSIONS 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 he proves, by a preponderance of the evidence, that he had good cause for leaving work when he 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 his employer for an additional period of time.

Claimant voluntarily left work because he was not willing to work with the new plant manager as his supervisor. Claimant contended that he quit to preserve his good reputation with the employer and avoid inevitable discharge due to how claimant and the new manager “interact[ed] with each other,” which would “only get worse with [the new plant manager] in charge.” Audio Record at 24:00 to 24:37. The record shows that the plant manager was critical of aspects of claimant’s management style during the November 2016 meeting, but does not show that his concerns about claimant’s management style were unjustifiable, that the new manager’s own methods were deficient, or that the new manager had unfairly discharged an employee before. Nor did claimant allege, and the record does not otherwise show, that the new plant manager used foul language, called claimant names, or threatened him physically. The most that can be reliably inferred from the record is that the new plant manager had a different management style than claimant, one that the employer implicitly preferred, and that the manager likely would have required claimant to conform to his style.

Although claimant would have preferred to be the new plant manager or have a manager with a style congruent with his own, claimant failed to show that the prospect of working for the new plant manager constituted a situation of such gravity that claimant had no reasonable alternative but to quit work when he did. The new plant manager had the right to expect claimant to conform to his reasonable expectations regarding management style. Moreover, claimant's testimony showed his own attitude caused much of the confrontation with the new plant manager. Claimant's situation was not grave.

Claimant did not show good cause for leaving work when he did. Claimant is disqualified from receiving unemployment insurance benefits.

DECISION: Hearing Decision 17-UI-76457 is affirmed.

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

DATE of Service: March 15, 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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