

**EMPLOYMENT APPEALS BOARD DECISION**  
**2017-EAB-0497**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On March 23, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 70304). Claimant filed a timely request for hearing. On April 20, 2017, ALJ Amesbury conducted a hearing, and on April 25, 2017, issued Hearing Decision 17-UI-81759, affirming the administrative decision. On May 1, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant failed to certify that he provided a copy of his written argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). The argument also contained information that was not part of the hearing record, and claimant failed to show that factors or circumstances beyond his reasonable control prevented him from offering the information during the hearing as required by OAR 471-041-0090 (October 29, 2006). For these reasons, EAB did not consider claimant's September 26th argument or the new information contained in it.

**FINDINGS OF FACT:** (1) Nor Cal Oil employed claimant as a gas station attendant from September 24, 2015 until February 24, 2017.

(2) In approximately August 2016, claimant agreed to work as assistant manager on alternate weekends. Claimant earned \$11.50 for his weekday work as a service writer, and \$16.50 for his weekend work as a manager.

(3) Claimant found his work as a manager to be very stressful. The employer's facility was often short-staffed on the weekends, and claimant found it difficult to give employees the breaks to which they were entitled. Claimant also believed the manager of the facility where he worked did not provide adequate support and assistance with his work.

(4) In February 2017, claimant made an error in servicing a vehicle that resulted in costly damage to the vehicle. After this incident, claimant was relieved of his duties as assistant manager; as a result, he lost

the additional \$5.00 per hour he had received for performing these duties. The employer continued to pay claimant \$11.50 per hour.

(5) On February 24, 2017, claimant voluntarily quit work because he believed the employer had unfairly reduced his salary by taking away his managerial wages while still requiring he perform the duties of an assistant manager.

**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 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.

At the hearing, claimant asserted that he quit his job because the employer treated him unfairly. Although claimant cited a number of examples of this unfair treatment, he testified that he voluntarily left work after he was told that he was losing the bonus he had been receiving for his work as a manager due to an error claimant made that resulted in costly damage to a vehicle. Audio recording at 11:23. We therefore focus on this reduction in his wages to determine whether it gave claimant good cause for quitting his job.

Claimant and the employer presented different accounts of the way in which claimant’s wages were reduced. According to the employer’s witness, claimant and the district manager agreed that he would be relieved of his assistant managerial duties and responsibilities after claimant damaged a vehicle; as a result of this change, claimant no longer was paid the assistant managerial bonus. Audio recording at 28:19. Claimant, however, testified that he continued to perform the work of an assistant manager, even after the employer took away his manager’s bonus, and that the reduction in wages constituted an unfair “garnishment” of his pay to which he had not consented. Audio recording at 12:01. The evidence regarding the employer’s alleged unfair reduction in claimant’s wages is equally balanced. As the party with the burden of persuasion, claimant therefore failed to meet his burden to show that the employer required him to perform managerial duties for which he was not paid. Accordingly, claimant did not demonstrate that he faced a grave situation due to an unfair reduction in his wages. A reasonable and prudent person, whose employer changed his job duties and, as a result, reduced his wages, would not conclude that he faced a situation of such gravity that he had no reasonable alternative but to quit his job. To the contrary, claimant had the reasonable alternative of continuing to work for the employer. The employer’s witness testified that had claimant continued to work for the employer, it intended to help him regain the assistant manager position. Audio recording at 30:08.

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

**DECISION:** Hearing Decision 17-UI-81759 is affirmed.

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

**DATE of Service:** May 19, 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.

**Please help us improve our service by completing an online customer service survey.** To complete the survey, please go to <https://www.surveymonkey.com/s/5WQXNJH>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.