

**EMPLOYMENT APPEALS BOARD DECISION**  
**2017-EAB-0562**

*Reversed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On April 4, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work with good cause (decision # 83247). The employer filed a timely request for hearing. On May 2, 2017, ALJ Janzen conducted a hearing, and on May 3, 2017, issued Hearing Decision 17-UI-82423, concluding that claimant voluntarily left work without good cause. On May 8, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) The Oregon Secretary of State (employer) employed claimant as a staff auditor from August 2015 until March 3, 2017.

(2) Several years ago, claimant was diagnosed with Post-Traumatic Stress Disorder (PTSD). Symptoms of claimant's PTSD include cramping, diarrhea and vomiting.

(3) In October 2016, a supervisor with whom claimant had a good working relationship retired and was replaced by SB. Claimant found it difficult to work under SB's supervision. SB met weekly with the audit team of which claimant was a member, and required the team to "project" the work planned for the week. SB then conducted a check in meeting with the team on Wednesday, at which she reviewed the work performed, and questioned team members about what they had done and would be doing. Claimant believed that SB was "micro managing" her work and was very uncomfortable with this management style. Claimant began to experience severe symptoms of her PTSD.

(4) In November 2016, claimant was involved in a serious automobile accident. Claimant was on protected medical leave for several weeks, and then was released to return to part time work. On or about January 6, 2017, claimant emailed SB and asked that she be taken off an audit on which she (claimant) had been working because she did not believe she was at work enough hours to effectively perform the necessary work. SB responded in an email in which she said that she would appreciate it if claimant remained on the audit and that she could not easily reassign claimant to another audit "because she wasn't in the office as often as she [claimant] would like to be." Transcript at 25. Claimant was

upset by SB's response, because she believed it was an attempt to pressure her to return to full time work. Transcript at 7.

(5) On January 9, 2017, claimant and SB met to discuss claimant remaining on the audit to which she had been assigned. At this meeting, SB told claimant that she needed to be more "mindful" about keeping track of her work hours because she had made a number of errors in filling out her time sheets. Transcript at 25. Claimant became upset and angry about this comment, because she believed SB was accusing her of defrauding the employer by claiming time worked that she had not worked. Transcript at 14.

(6) In January 2017, claimant spoke to the Interim State Auditor about her difficulties working with SB. The Auditor told claimant that she was aware of SB's management style, and would talk to SB about changing it. Transcript at 6. In February 2017, claimant spoke to a representative from the employer's human resources (HR) division about her problems working with SB. Claimant and the HR representative "talked about how micromanaging is not a hostile work environment, that is a management style..." Transcript at 35. Claimant did not tell the Auditor or the HR representative about the PTSD symptoms she was experiencing, and never requested any accommodation for her disorder.

(7) Sometime prior to February 28, 2017, claimant's physician told her that the PTSD symptoms she was experiencing were sufficiently severe that she should find a job with a supervisor who did not "trigger" her PTSD. Transcript at 18-19.

(8) Sometime in late February 2017, claimant tried to go to work but found she was physically unable to do so. On February 28, 2017, claimant told the employer that she was voluntarily leaving work, effective March 10, 2017. On March 3, 2017, however, claimant was ill and chose to quit work on that date. Claimant quit her job because work under SB's supervision adversely affected her health.

**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.

The ALJ found that claimant faced a grave situation on account of the PTSD that "manifested itself through stomach issues that she experienced near the end of her employment." Hearing Decision 17-UI-82423 at 3. The ALJ, however, also found that claimant failed to pursue the reasonable alternative of disclosing her PTSD to the employer and requesting accommodation "to alleviate her physical symptoms." *Id.* At the time claimant chose to voluntarily leave work, however, she had already spoken with the head of her work unit, the Interim State Auditor, and a representative from the employer's HR

division about the circumstances that exacerbated her PTSD – her supervisor’s management style. These conversations resulted in no change in claimant’s work environment. Had claimant disclosed her PTSD to the employer, it is unlikely that it would have taken the action necessary to reduce or eliminate her symptoms --changing her supervisor. The employer’s HR representative testified that “in 20 years with the State I have never seen an accommodation granted by moving somebody to a new supervisor.” Transcript at 43-44. A reasonable and prudent person who suffered from the type of PTSD symptoms that claimant did, whose symptoms were worsened by her interactions with her supervisor, and whose attempts to obtain assistance from HR and upper management in changing her work situation had failed, would conclude that she had no reasonable alternative but to quit her job.

Claimant voluntarily left work with good cause. She is not disqualified from the receipt of unemployment benefits on the basis of this work separation.

**DECISION:** Hearing Decision 17-UI-82423 is set aside, as outlined above.

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

**DATE of Service:** May 30, 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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