

**EMPLOYMENT APPEALS BOARD DECISION**  
**2017-EAB-0590**

*Reversed*  
*Disqualification*

**PROCEDURAL HISTORY:** On March 14, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 91941). Claimant filed a timely request for hearing. On April 24, 2017, ALJ Amesbury conducted a hearing, and on April 27, 2017 issued Hearing Decision 17-UI-82009, concluding claimant quit work with good cause. On May 16, 2017, the employer filed an application for review with the Employment Appeals Board (EAB).

The employer's argument contained information that was not part of the hearing record, and failed to show that factors or circumstances beyond its reasonable control prevented it from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (October 29, 2006), we considered only information received into evidence at the hearing when reaching this decision.

**FINDINGS OF FACT:** (1) Dr. Shajida Espat Reich & Associates employed claimant as an office coordinator from November 27, 2016 to January 2, 2017. Claimant's job with the employer was permanent, full time and paid no more than \$12.50 per hour.

(2) Claimant was scheduled to work reduced hours during her term of employment because she was in training and could not work unless her trainer was present; the employer also sent claimant home early when there was insufficient work for her. Claimant also chose to take some time off work. Claimant was dissatisfied with her hours of work, and unhappy with the way her coworkers treated her.

(3) On December 26, 2016, the employer sent claimant home from work early. Claimant did not want to continue working for the employer but needed another job before she could quit. Audio recording at ~ 27:20, 30:00. That day, claimant went to SelecTemp, a temporary staffing agency, to apply for work.

(4) Claimant last worked for the employer on December 30, 2016. The same day, claimant interviewed and was hired for an assignment through SelecTemp with SelecTemp's client, Sterling Business Forms. The work was full time, scheduled to start on January 3, 2017, and paid \$14.00 per hour. The job "was

supposed to [last] . . . as long as I was doing good and – and they – at the end of the 30 days if they liked me then, then I would stay.” Audio recording at ~ 37:55.

(5) On January 2, 2017, claimant notified the employer that she was quitting work, effective immediately. Claimant did not report to work for the employer thereafter, and began her assignment through SelecTemp the following day.

**CONCLUSIONS AND REASONS:** We disagree with the ALJ, and conclude that claimant voluntarily quit work without 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). For purposes of determining “good cause,” an individual who leaves work to accept an offer of other work has shown good cause for leaving only if, among other things, the offered work was “reasonably . . . expected to continue.” OAR 471-030-0038(5)(a).

Although we agree with the ALJ that claimant received a definite offer of work that paid more than the work she left and was expected to begin in the shortest time reasonable under the circumstances, the ALJ also found as fact that claimant interviewed for a job with Sterling Business Forms and was offered a “permanent” job with that business, implicitly concluding on that basis that claimant’s new job was “reasonably expected to continue,” and she therefore quit her job with the employer with good cause. Hearing Decision 17-UI-82009 at 1, 2. We disagree.

The ALJ’s findings and analysis omitted reference to the undisputed fact that Sterling was not the business that hired claimant. Rather, claimant was assigned to Sterling through SelecTemp, a temporary staffing agency. Assignments through temporary agencies are, generally speaking, not permanent jobs, nor are they typically expected to continue. While claimant testified that the job with Sterling might continue “if they [Sterling] liked me,” she also testified that the initial assignment through SelecTemp was for only 30 days. Under the circumstances described at the hearing, it is more likely than not that SelecTemp employed claimant in a 30-day temp-to-hire assignment, whereby claimant’s employment with SelecTemp would last only 30 days and continued employment after that point was at Sterling’s discretion. Claimant’s temporary assignment through SelecTemp at Sterling was, therefore, not a permanent job. Nor do we consider a 30-day temp-to-hire job as “reasonably expected to continue,” particularly as compared to the permanent employment claimant left in favor of that position.<sup>1</sup>

---

<sup>1</sup> Whether, at the end of 30 days, Sterling hired claimant or allowed the assignment to end, the employment relationship between claimant and SelecTemp would end at that point because, for purposes of unemployment insurance, “work” is the continuing relationship between an employer and an employee, and “[i]n the case of individuals working for temporary agencies or employee leasing companies, the employment relationship shall be deemed severed at the time that a work assignment ends.” OAR 471-030-0038(1)(a). Therefore, regardless whether claimant’s assignment with Sterling ended after 30 days because Sterling did not “like” her, or whether Sterling “liked” claimant and hired her, claimant’s employment relationship with SelecTemp would end. Her employment with SelecTemp was, therefore, not “reasonably expected to

Because claimant's job through SelecTemp was not reasonably expected to continue, she did not establish that she had good cause to leave her job with the employer to accept an offer of other work. Claimant argued that she had other reasons for leaving the employer, specifically, the lack of hours and the way her coworkers treated her. However, she also testified that she would never have quit her job with the employer unless she first had another job. Therefore, claimant's offer of work through SelecTemp was the proximate cause of her decision to quit work and the proper focus of the good cause analysis. Because claimant did not show good cause to quit work for that reason, she does not have good cause for leaving work and must be disqualified from receiving unemployment insurance benefits.

**DECISION:** Hearing Decision 17-UI-82009 is set aside, as outlined above.

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

**DATE of Service:** June 7, 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.

---

continue" past the 30-day employment term claimant described at the hearing. We note that even if there was no separation between claimant and SelecTemp after the initial 30-day period, and if claimant had continued in her assignment at Sterling through SelecTemp, the 30-day contingency would still mean that the assignment was not permanent or reasonably expected to continue.