

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0641

Affirmed
Disqualification

PROCEDURAL HISTORY: On April 7, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 114125). Claimant filed a timely request for hearing. On May 16, 2017, ALJ Murdock conducted a hearing, and on May 18, 2017, issued Hearing Decision 17-UI-83771, affirming the administrative decision. On May 25, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

EAB considered claimant's written argument to the extent it was relevant and based on information admitted into evidence at the hearing.

FINDINGS OF FACT: (1) Dravon Medical, Inc. employed claimant as a production manager from February 6 through March 6, 2017.

(2) Claimant was expected to work with other employer managers, one of whom, C,¹ was a machine operator who was serving as a temporary production manager. C had many years of experience working for the employer, and was knowledgeable about and very familiar with the employer's processes. Claimant and C initially had a cordial working relationship; C helped train claimant in his job duties and served as interpreter for him, since many of the employees were monolingual Spanish-speakers.

(3) Sometime during the first week of claimant's employment, claimant spoke to a machine operator about an error that operator had made. C became upset with claimant and told him that "you can't talk to my people like that." Audio recording at 17:35. After this incident, claimant's relationship with C was no longer friendly. C stopped interpreting for claimant, and often refused to communicate with him about work-related matters. In addition, claimant believed that C periodically became upset about problems and engaged in unprofessional and inappropriate behavior, such as yelling and crying. Audio recording at 13:10.

¹ C is a pseudonym.

(4) Claimant spoke to the employer's other managers about C's refusal to cooperate with him. The managers agreed that as a corrective action, claimant, C and the other managers would meet daily to discuss production needs for the day. Audio recording at 20:54. This daily meeting occurred only once, however. Audio recording at 21:27.

(5) On March 3, 2017, claimant reported to work early to prepare a shipment of the employer's product. Claimant had almost completed all the work needed for the shipment, which included accounting for parts used in the shipment and parts that were not used, when C told him that there was a great deal of product that he had failed to account for. Claimant asked C why she had waited until he had almost completed the shipment to tell him about the problem, and C replied that she thought claimant knew everything. Audio recording at 10:24. Claimant believed that C had intentionally delayed telling him about the problem with the shipment, apparently in an effort to make him look incompetent. Audio recording at 34:54. He quit his job on March 3 because he believed that C's refusal to provide him with correct direction and training for his position made it impossible for him to successfully learn and perform the work the employer expected of him.

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 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). The standard is objective. *McDowell v. Employment Department*, 348 Or 605, 612, 236 P2d 722 (2010). A claimant who quits work must show that no reasonable and prudent person would have continued to work for the employer for an additional period of time.

Claimant quit his job because he believed that C, a temporary production manager, failed to provide him with the correct direction and training needed to learn and perform his job. According to claimant, C stopped communicating to him after his first week of work for the employer, and refused to assist him by interpreting for the many monolingual Spanish speakers with whom claimant worked. Claimant concluded that their "relationship didn't work" and that it was unlikely to improve. Audio recording at 26:50, 40:11. Claimant's lack of a friendly working relationship with C was undoubtedly unpleasant and difficult for him, but he failed to demonstrate that it resulted in performance on the job that the employer considered to be inferior. To the contrary, the employer's interim operations manager and controller testified that the employer "enjoyed" having claimant as an employee and only wished that he had stayed on the job longer to "work things out." Audio recording at 32:52. Claimant therefore failed to show that his problems working with C constituted a grave situation.

Even if we were to conclude that claimant faced a grave situation, the record shows he had reasonable alternatives to quitting his job. Claimant could have attempted to talk to C about her behavior and attitude; if he felt uncomfortable doing so, he could have asked another manager who had worked with C longer than claimant had to join him in this discussion. Claimant could have asked for help from the employer's owner in improving his relationship with C. Claimant apparently had a conversation with the owner about C, but spoke only about the possibility of discharging C, which claimant said he did not

believe was necessary. Audio recording 22:47. Finally, claimant could have attempted to reinstate the daily managers' meeting to discuss production needs; the record shows that he made no effort to continue the meetings after they stopped. A reasonable and prudent person, who was interested in keeping his job, would have made efforts to improve his relationship with C before concluding that his difficulties working with her left him no alternative but to voluntarily leave work.

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-83771 is affirmed.

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

DATE of Service: June 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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