

**EMPLOYMENT APPEALS BOARD DECISION**  
**2017-EAB-0756**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On May 4, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 84810). Claimant filed a timely request for hearing. On May 31, 2017, ALJ S. Lee conducted a hearing, and on June 5, 2017 issued Hearing Decision 17-UI-84927, affirming the Department's decision. On June 22, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Ridgeline Management Co. employed claimant from January 11, 2017 to April 14, 2017.

(2) The employer hired claimant to work as a regional director of operations (RDO). On March 16, 2017, at claimant's request, the employer transferred her out of that position and assigned her to work as an administrator of a property in Albany, Oregon. The employer assigned another employee to fill the RDO position claimant had vacated; the new RDO supervised claimant.

(3) The property claimant was to administer was brand new, and claimant was assigned to perform a variety of tasks she had never before performed, such as getting a sales trailer and portable restrooms for the job site, and obtaining proof of insurance coverage for the site, among other things. Claimant needed assistance and guidance to perform those duties.

(4) On March 22, 2017, claimant called the RDO to ask for some assistance; during the call, claimant inadvertently referred to the RDO as "hon" when thanking him for his help. Transcript at 7. Claimant felt "extremely" embarrassed and "humiliated" over the incident, and, thereafter, felt that the RDO "accused" her of having called him "hon," and reprimanded and "torment[ed]" her for having said it. Transcript at 7, 10. Claimant spoke with another regional director about the RDO and, as a result of that conversation, felt that the COO "doesn't care" and "has [the RDO's] back." Transcript at 10. She "became very guarded and fearful [with the RDO] because I didn't want to ever have that conversation with him again." Transcript at 7.

(5) The RDO had concerns about claimant's work performance. For example, the RDO did not receive a marketing plan or email about her progress when he had expected to receive them, noted that claimant had not used a template after they had discussed using the template, and suggested she had reviewed and approved of information she later said she had never received. The RDO informed claimant of the concerns and told her that he wanted claimant and the project to be successful.

(6) On April 11, 2017, claimant asked the RDO for assistance again. She had lost some resource materials and emails about the Albany, Oregon property when she had transferred from RDO to administrator, and needed some forms and information. Claimant felt the RDO's response was inappropriate, and that he had raised his voice to her on the phone and been unprofessional toward her.

(7) Claimant felt that the RDO was "not a good leader," and because of his criticisms and concerns about her work that he was "harassing me and [] belittling me and making me feel completely inadequate." Transcript at 8, 15. Claimant felt that the RDO was unprofessional, and that he "continued to harass me and basically attack me for not having this information available to him." Transcript at 9. Claimant felt that the RDO was demanding she produce work within a certain time frame when she lacked the experience and resources to produce it, even though claimant had made it "very, very clear to him" that she could not produce the work. Transcript at 13.

(8) After the conversation with the RDO on April 11<sup>th</sup>, claimant felt that the RDO had grounds to fire her and that it would be for the best if he did. On April 11, 2017, claimant sent an email to that effect to the RDO and human resources director, stating that "[w]ith all due respect I would be expecting my letter of termination no later than the close of business tomorrow." Transcript at 21.

(9) On April 12, 2017, the human resources director contacted claimant and asked, "Are you resigning?" *Id.* Claimant replied, "Absolutely not." Transcript at 21. The human resources director responded that the RDO "is not terminating you" and asked if claimant wanted to speak with her that day. Claimant and the RDO then had a conversation in which the RDO felt that claimant "tried to get me to fire her, but when I said I wasn't doing that, she resigned." Transcript at 23. After that conversation, claimant sent an email that said, "Please accept this as my letter of resignation effective 4/14." Transcript at 21-22. On April 13, 2017, the human resources director contacted claimant and said "I saw your e-mail . . . that you resigned." *Id.* The human resources director then gave claimant information about claimant's final check and returning the employer's property.

(10) Prior to quitting work, claimant did not contact the COO about her concerns over the RDO's behavior because the COO was out of the country that week. Claimant did not contact the human resources director about the RDO, either. Although the human resources director was out of town on April 11<sup>th</sup>, she was working and responding to emails. Effective April 14, 2017, claimant quit work. The employer had no plans to terminate claimant's employment at that time.

**CONCLUSIONS AND REASONS:** We agree with the ALJ 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) (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.

Claimant quit work because she felt her supervisor, the RDO, was harassing and belittling her about her work performance, and had “tormented” her for accidentally calling him “hon.” The examples of harassment and belittling developed at the hearing, however, appeared to be instances in which the RDO expressed concerns that she had missed deadlines or suggested she did not have materials she had previously indicated she had reviewed and approved. Although claimant was concerned about the RDO’s behavior during one phone call, the email the RDO sent claimant around the same time expressing concerns about claimant’s work performance did not appear to be harassing or belittling in nature, nor did it appear to be unprofessional or unsupportive. Nor did claimant explain how the RDO’s reaction to her use of the endearment “hon” to address him, even if it involved a reprimand, amounted to “torment” of her, much less that it was the RDO’s response to her use of the term rather than her own sense of embarrassment at having done so that caused claimant to feel apprehension at the prospect of speaking with him again after that had occurred. In sum, claimant did not establish that the RDO’s treatment of her amounted to such a grave situation that no similarly situated person would conclude she had to leave work because of it.

Even if she had, claimant had reasonable alternatives to quitting work when she did. The COO was out of the office at the time claimant gave notice and quit her job, but she was only away on a planned absence for only one week, and the situation claimant described was not so dire that claimant had to leave work immediately rather than waiting for the COO’s return and discussing her concerns at that time. Although claimant had been discouraged from complaining to the COO about the RDO about the March 22<sup>nd</sup> “hon” incident, the record fails to show that claimant had reason to believe the COO would ignore complaints that the RDO was harassing, belittling and tormenting her, or would take no steps to investigate claimant’s concerns because she “had [the RDO’s] back.” The human resources director was also away from the office for a couple of days at that time, but she was still working and responded to claimant’s April 11<sup>th</sup> email within a day to clarify what it meant as far as claimant’s employment status. It would also not have been futile for claimant to voice her concerns to the human resources director, who, upon learning of claimant’s concerns, investigated the matter. Notably, the human resources director also contacted claimant to clarify whether she was quitting, asked if claimant wanted to speak with her, told claimant that the employer had not discharged her, and asked her if she wanted to resign, giving claimant many opportunities to work with the employer to address her concerns without having to quit work to do so. Claimant therefore had reasonable alternatives to quitting work when she did.

For the reasons explained, we conclude that claimant quit work without good cause. She is therefore disqualified from receiving unemployment insurance benefits because of her work separation.

**DECISION:** Hearing Decision 17-UI-84927 is affirmed.

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

**DATE of Service: July 18, 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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