

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0798

Affirmed
No Disqualification

PROCEDURAL HISTORY: On April 6, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 141400). Claimant filed a timely request for hearing. On June 15, 2017, ALJ Wyatt conducted a hearing, and on June 23, 2017 issued Hearing Decision 17-UI-86440, concluding claimant voluntarily left work with good cause. On July 6, 2017, the employer filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) AAA Cleaning Service Metro, Inc. employed claimant from February 13, 2017 until March 6, 2017 as a janitor.

(2) Claimant worked at a site in Halsey, Oregon, located 19.8 miles from her home in Corvallis, Oregon. It normally took claimant 20 minutes to drive one way to work. Claimant worked at night. Claimant knew of no bus service or other transportation between Corvallis and Halsey.

(3) Before March 3, 2017, claimant's driver's side car window fell into her car, and would no longer close. Claimant did not feel safe driving her car to Halsey in that condition. On March 3, 2017, claimant sent the employer's operations director a text message stating that her car window had fallen into the car, and that she was unable to drive to work or would need the employer to transport her to work. The employer was not able to provide claimant transportation and had another employee work claimant's shift on March 3.

(4) In March 2017, claimant did not have the funds to have a mechanic repair her car window.

(5) Claimant's manager told claimant that a closer job site, located in Tangent, Oregon, was already filled by the manager herself.

(6) On March 6, 2017, claimant texted to the operations director that she quit because she could not afford to have her car repaired. Claimant was not able to repair her car for two months after she quit.

CONCLUSION AND REASONS: We agree 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.

At the time claimant quit her position as a janitor with the employer, she had no safe transportation to travel to and from work, and did not have the funds to repair her car. Claimant’s car window would not close and claimant reasonably did not feel safe driving the car the distance necessary to travel to her work site in Halsey, Oregon at night. It was two months before claimant was able to have her car repaired. The condition of claimant’s car and the distance and time of day that claimant worked thus created a grave situation for claimant. The record does not show that claimant had a reliable alternate transportation option or a closer position available to her at the time she quit. A reasonable and prudent person would conclude that she had no alternative but to quit a job if she had no safe transportation to work.

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

DECISION: Hearing Decision 17-UI-86440 is affirmed.

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

DATE of Service: August 2, 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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