

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0812

Affirmed
Disqualification

PROCEDURAL HISTORY: On May 9, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work with good cause (decision # 105024). The employer filed a timely request for hearing. On June 14, 2017, ALJ Frank conducted a hearing, and on June 16, 2017, issued Hearing Decision 17-UI-85888, concluding claimant voluntarily left work without good cause. On July 1, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Norlift of Oregon, Inc. employed claimant as a customer service representative from March 29, 2017 to April 17, 2017.

(2) Shortly after hire, claimant became concerned about her working conditions. Her training materials regarding office and job procedures were incomplete and she received conflicting instructions from the supervisors of departments she worked with about what to do, who to listen to, and who to ignore. When she spoke to her own supervisor about the conflicts, much like the others, he told her to do things his way. The employer's service manager told her that a "political war was going on" in the office and to "hang in there." Audio Record ~ 5:30 to 6:15. She complained about the problem to several supervisors she worked with without receiving any resolution.

(3) On Friday, April 14, 2017, when the employer's human resources representative saw claimant, she asked her how things were going with her job. Claimant responded that maybe the job was "not the right fit" for her. Audio Record ~ 19:00 to 20:00. The representative became concerned and met with her privately to determine what the potential problems were. After hearing claimant's concerns, she agreed it was a problem but suggested they each consider possible solutions over the weekend and meet the following Monday to determine a course of action toward resolving it.

(4) Over the weekend, claimant concluded the human resources representative probably did not know how to resolve the issues, and on Monday, April 17 claimant did not report to work because the thought of going into work gave her "a panic attack." Audio Record ~ 13:00 to 14:45. Later that day, she sent an email to the human resources representative notifying her that she was resigning, effective

immediately, because she could not work in such a “combative environment.” Audio Record ~ 12:00 to 13:00.

CONCLUSIONS AND REASONS: We agree with the ALJ. 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 has the burden to show that no reasonable and prudent person in her circumstances would have continued to work for the employer for an additional period of time.

Claimant failed to show a reasonable and prudent customer service representative of normal sensibility, exercising ordinary common sense in the face of legitimate concerns about workplace interactions and authority, would have concluded her situation after nineteen days on the job was so grave she had no reasonable alternative but to quit work. Although claimant asserted that she had a “panic attack” on April 17 just thinking about reporting to work, when asked, she did not disclose any physical or emotional conditions she was being treated for by any medical professional. Audio Record ~ 14:00 to 15:30. Viewed objectively, at a minimum, a reasonable and prudent customer service representative in claimant’s circumstances would have at least met with the human resources representative to discuss and consider possible resolutions of the problem, made a good-faith attempt to achieve one, and continued to work for the employer for some additional period of time.

We therefore conclude that claimant quit work without good cause. Claimant is disqualified from receiving unemployment insurance benefits until she has earned at least four times her weekly benefit amount from work in subject employment.

DECISION: Hearing Decision 17-UI-85888 is affirmed.

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

DATE of Service: August 1, 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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