

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0835

Reversed
No Disqualification

PROCEDURAL HISTORY: On March 21, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 71836). Claimant filed a timely request for hearing. On June 14, 2017, ALJ Triana conducted a hearing, and on June 14, 2017 issued Hearing Decision 17-UI-86222, affirming the Department's decision. On July 11, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) PeaceHealth employed claimant as a patient access representative from December 28, 2015 to February 15, 2017.

(2) Claimant resided in Eugene, Oregon while working for the employer. Claimant's daughter and three minor grandchildren resided in Redding, California. Claimant's daughter was having a difficult time raising her children and needed help.

(3) In November 2016, claimant's daughter told claimant that her grandfather, who provided transportation for her and her children, had dementia and she was concerned about his driving. Claimant's daughter asked claimant to move to California to help her care for her three children. Claimant asked her daughter to move to Eugene instead; her daughter initially agreed but needed a court's authorization to move and ultimately decided to stay in Redding.

(4) Just prior to January 30, 2017, claimant's daughter again asked claimant to move to California to care for her children. At that time, claimant knew that her daughter had lost her driver's license because she had driven under the influence of intoxicants with the children present in the car and been convicted of DUI and child endangerment. She knew that one of her grandchildren had been born addicted to heroin and that child protective services was involved with the family. She also knew her grandchildren were relying on an elderly person with dementia for transportation and had missed three days of school because they lacked transportation to school. Claimant had ongoing concerns about her grandchildren's safety, access to food and ability to go to school.

(5) Claimant agreed to move in with her daughter in Redding to help with the grandchildren. On January 30, 2017, claimant notified the employer that she planned to quit work on February 15, 2017. Claimant moved to Redding, California on February 18, 2017.

(6) After moving to Redding, California, claimant learned that her daughter's situation was much worse than she had believed and observed her daughter and/or her daughter's boyfriend using intravenous drugs in front of the children, selling drugs out of the home, and endangering and neglecting the children. On March 29, 2017, on instruction of child protective services, claimant filed a petition for temporary guardianship of the children.

CONCLUSIONS AND REASONS: We disagree 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.

The ALJ concluded that claimant voluntarily left work without good cause. Reasoning that although claimant's "desire to be near her family and help her daughter" were understandable and "may have been a wise personal decision," the ALJ was "not persuaded that claimant faced a grave situation where she had no reasonable alternative but to quit work" because she did not "show that her daughter had exhausted all other options to get transportation" or that "either her daughter or grandchildren would be severely negatively impacted" if claimant did not move. Hearing Decision 17-UI-86222 at 2. We disagree.

At the time claimant quit work she knew that her youngest grandchild was born addicted to heroin, suggesting that her daughter was using drugs, she knew that her daughter had been convicted of reckless endangerment of the children because she had driven a car intoxicated while her children were present, she understood that child protective services were involved with her daughter's family, she knew that her daughter was relying upon an elderly person with dementia to drive her children even though she had concerns about his driving, she understood that the children had already missed three days of school because of their situation, and she was justifiably concerned about her grandchildren's ongoing safety and access to school and food because of those circumstances. Under those circumstances, claimant has established the existence of a grave situation that could not be remedied by her daughter trying harder to secure alternative transportation for herself and the children. Moreover, claimant submitted an extensive amount of material demonstrating the abusive and neglectful environment in which her children were living at the time she arrived in Redding, an environment so bad that she had to apply for temporary guardianship of the grandchildren to ensure their health and safety. The fact that claimant had to do so corroborates the assessment claimant had made of the situation at the time she quit work, and suggests

that claimant's grandchildren would, in fact, have been "severely negatively impacted" had claimant not moved to Redding to help care for them. No reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would have continued working for the employer in the face of such a grave personal situation. Although the gravity of claimant's situation appears in no way attributable to the employer or her working conditions, it nevertheless amounted to good cause for leaving work when she did.

Claimant quit work with good cause. She is not disqualified from receiving unemployment insurance benefits because of her work separation.

DECISION: Hearing Decision 17-UI-86222 is set aside, as outlined above.¹

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

DATE of Service: August 3, 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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¹ This decision reverses a hearing decision that denied benefits. Please note that payment of any benefits owed may take from several days to two weeks for the Department to complete.