

**EMPLOYMENT APPEALS BOARD DECISION**  
**2017-EAB-0844**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On May 17, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 73128). Claimant filed a timely request for hearing. On July 7, 2017, ALJ Meerdink conducted a hearing, and on July 10, 2017 issued Hearing Decision 17-UI-87544, affirming the Department's decision. On July 17, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

**EVIDENTIARY MATTER:** During the July 7, 2017 hearing the ALJ stated that he admitted Exhibit 1, consisting of a copy of a text message, into evidence, but did not mark the document. Because the ALJ described the documents in sufficient detail, however, we were able to mark Exhibit 1 as a clerical matter. Audio Record at 3:21 to 3:58.

Claimant submitted written argument to EAB. With her argument she submitted documents offered but not admitted at hearing, and other new information. The ALJ did not admit claimant's documents at hearing because claimant did not send a copy of the documents to the employer before the hearing, as required under OAR 471-040-0023(4) (August 1, 2004). EAB therefore did not consider those documents when reaching this decision. Regarding the other new information, claimant failed to show that factors or circumstances beyond claimant's reasonable control prevented claimant from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (October 29, 2006), we considered only information received into evidence at the hearing when reaching this decision.

The employer also submitted new information to EAB and failed to show that factors or circumstances beyond the employer's reasonable control prevented it from offering the information during the hearing. We therefore considered the employer's argument only to the extent it related to information presented at hearing. *See* ORS 657.275(2) and OAR 471-041-0090.

**FINDINGS OF FACT:** (1) Lucky Spot, LLC employed claimant as a clerk and cashier from October 2013 until April 28, 2017.

(2) Until April 26, 2017, the employer had regularly scheduled claimant to work two shifts per week, totaling 10.25 hours per week. On April 26, 2017, claimant's manager told claimant that, effective immediately, the employer was reducing claimant's hours to one shift per week, which would be on Sunday evening. The shift would be less than 10.25 hours.

(3) The employer scheduled claimant to work on Sunday, April 30, 2017.

(4) Claimant could have looked for other full time work and continued to work for the employer. Claimant would have earned more from working one shift per week than it cost her in expenses to work.

(5) On April 28, 2017, claimant quit work because the employer reduced her hours.

**CONCLUSIONS 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) (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. If an individual leaves work due to a reduction in hours, the individual has left work without good cause unless continuing to work substantially interferes with her return to full time work or the cost of working exceeds the remuneration received. OAR 471-030-0038(5)(e).

Claimant testified that the only reason she quit work was that the employer reduced her hours from two shifts totaling 10.25 hours to one shift on Sunday evening with presumably fewer than 10.25 hours. Audio Record at 10:31 to 10:38. Claimant did not establish that working reduced hours substantially interfered with her return to full time work, and instead testified that she could have worked the one shift and sought other work. Audio Record at 9:25 to 9:49. And although claimant argued that she quit because she could not support herself working one shift for the employer,<sup>1</sup> she failed to show that the cost to claimant of commuting to work and performing the work for the employer would have exceeded the pay she would have received from working. Absent a showing that continuing to work interfered with claimant's return to full time work, or that the cost of working exceeded the remuneration she would have received, claimant did not establish good cause to quit due to the reduction in her hours pursuant to OAR 471-030-0038(5)(e).

Claimant quit work without good cause and is disqualified from receiving benefits based on her work separation from the employer.

**DECISION:** Hearing Decision 17-UI-87544 is affirmed.

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<sup>1</sup> Audio Record at 8:10 to 8:23.

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

**DATE of Service: August 10, 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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