

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0870

Affirmed
Disqualification

PROCEDURAL HISTORY: On May 16, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 91658). Claimant filed a timely request for hearing. On June 27, 2017, ALJ S. Lee conducted a hearing, and on June 30, 2017, issued Hearing Decision 17-UI-87007, affirming the administrative decision. On July 20, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Kelly Services Global, a temporary employment agency, employed claimant from November 16, 2015 until March 20, 2017. The employer assigned claimant to work at Nike.

(2) Claimant's assignment at Nike was originally scheduled to last until May 2017. Sometime prior to March 10, 2017, however, claimant was told that his Nike assignment would end on March 10, 2017.

(3) In late February 2017, claimant's terminally ill uncle was hospitalized. Claimant was upset and stressed by his uncle's illness, and assisted other relatives in caring for his uncle.

(4) On or about March 8, 2017, claimant's supervisor at Nike told claimant that his assignment could be extended until April 2017. Claimant told the supervisor he would need some time to decide whether he wanted to continue working for Nike.

(5) On March 20, 2017, claimant quit his job with the employer. Claimant quit because he wanted to help care for his uncle and because he was frustrated by Nike's "lack of professionalism" in changing the dates on which his assignment was scheduled to end. Audio recording at 14:34. Prior to voluntarily leaving work, claimant did not contact the employer to request time off to help care for his uncle.

CONCLUSION 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.

Claimant’s desire to assist in caring for his terminally ill uncle constituted a grave reason for voluntarily leaving his work. Claimant, however, had a reasonable alternative to quitting when he did: he could have asked the employer for time off so he could assist in his uncle’s care. The employer’s representative testified that on “several occasions,” the employer had requested that an individual be granted leave from a work assignment to care for a sick family member. Audio recording at 28:50.

Claimant testified that because his assignment at Nike was scheduled to end on April 15, he believed his “best option” was to quit his job on March 20, rather than to attempt to take any time off. The employer’s representative testified, however, that the length of the Nike assignment was somewhat uncertain, and that it was possible the assignment could have been extended beyond April 15. The employer’s representative also explained that had claimant been granted leave that extended beyond the ending date of his current Nike assignment, the employer would have placed claimant on a list of individuals who were ready for and available for future Nike assignments. Audio recording at 29:48.

To the extent that claimant quit his work for the employer because he was dissatisfied with Nike’s “lack of professionalism” in changing the dates by which his assignment was expected to end, claimant failed to demonstrate that this was a grave reason for voluntarily leaving work. Nike’s somewhat abrupt changes in claimant’s assignment ending dates were undoubtedly frustrating for claimant. However, he failed to show that these changes adversely affected him in way, *e.g.*, caused any disruption in his personal life or financial affairs. A reasonable and prudent person would have continued to remain employed at a temporary work assignment, even when the date the assignment was scheduled to end had been changed and might be subject to future changes.

Claimant voluntarily left work without good cause. He is disqualified from the receipt of unemployment benefits on the basis of this work separation.

DECISION: Hearing Decision 17-UI-87007 is affirmed.

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

DATE of Service: August 11, 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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