

**EMPLOYMENT APPEALS BOARD DECISION**  
**2017-EAB-0883**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On May 31, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 83914). Claimant filed a timely request for hearing. On July 5, 2017, ALJ Wyatt conducted a hearing, and on July 7, 2017, issued Hearing Decision 17-UI-87475, affirming the Department's decision. On July 26, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant's written argument contained information that was not offered into evidence during the hearing, did not explain why she was unable to present the information at that time or otherwise show, as required by OAR 471-041-0090 (October 29, 2006), that factors or circumstances beyond her reasonable control prevented her from doing so. Accordingly, under ORS 657.275(2), OAR 471-041-0080 and OAR 471-041-0090, EAB only considered the hearing record when reaching this decision.

**FINDINGS OF FACT:** (1) Compaction and Recycling Equipment employed claimant as an office assistant from April 1, 2016 to May 9, 2017. The employer was a small company with only 12 employees and claimant was supervised by the office manager, with whom she worked in close quarters.

(2) Claimant believed that she and the office manager had a personality conflict. The basic difficulty was that claimant believed the office manager often spoke to her disrespectfully, in both the words she used and the manner in which she spoke to her. Claimant also disliked that the office manager occasionally used foul language when speaking to her, although she did not use such language to call claimant derogatory names.

(3) On May 2, 2017, claimant notified the employer's owner that she intended to quit that day due to "personality differences" between her and the office manager; the owner was surprised and disappointed, because claimant was well regarded at work. Audio Record ~ 24:45 to 27:30. The owner asked claimant to stay, or at least "sleep on it", and offered to talk to the office manager to attempt resolve the issues. *Id.* In response, claimant offered to stay until May 17, 2017 and talk to the office manager herself to attempt to resolve the issue.

(4) On May 3, 2017, when the owner arrived at work, claimant and the office manager told the owner, “We’ve had a conversation and we think we worked it out. We’re both going to try harder”, which pleased the owner. Audio Record ~ 27:10 to 27:50. The following day he bought them both a restaurant gift card to show his appreciation.

(5) On May 9, 2017, during the late morning, claimant received a call from a customer informing her that one of its drivers was on its way there from California to pick up a piece of equipment. Claimant knew nothing about it and when she asked the office manager, the office manager responded in a disrespectful tone that she also knew nothing about it. After claimant impressed upon her the seriousness of the situation, she eventually said, “give it to me, I’ll handle it.” Audio Record ~ 15:45 to 17:15. During the late afternoon, the driver arrived and the office manager and everyone, except a sales coordinator, were gone. Claimant learned the office manager had not addressed the problem with the customer and she did not answer claimant’s calls. Claimant then called the owner, who was out of town at a convention, who informed her that the equipment would not be available until the next day, and she so informed the driver. Shortly thereafter, she concluded the office manager’s behavior that day, “was the last straw.” Audio Record ~ 17:15 to 18:45. Before leaving that day, she gave her employer keys and cell phone to the sales coordinator and said, “I’m done.” Audio Record ~ 18:45 to 19:45.

**CONCLUSIONS AND REASONS:** We agree with the Department and ALJ. Claimant voluntarily left work without good cause.

A claimant who leaves work voluntarily is disqualified from the receipt of benefits unless she (or he) 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 must show that no reasonable and prudent person would have continued to work for the employer for an additional period of time.

Claimant left work because she believed the office manager was often disrespectful and sarcastic when talking to her which sometimes included the use of foul language. When informing the owner that she was resigning on May 2, she described the issue as “personality differences.” Although she apparently agreed to stay and “try harder” to work things out on May 3, the “last straw” for her was the office manager’s neglect of the equipment delivery problem on May 9 after telling claimant she would “handle it”, leaving claimant to later deal with an issue she knew nothing about. Although claimant’s interactions with her supervisor were obviously unpleasant and uncomfortable, she admitted at hearing that requesting the owner intervene to smooth things over “could have been an option” and the employment relationship “may have worked out for a little while longer but... [Not] in the long run.” Audio Record ~ 13:50 to 15:30. Under those circumstances, viewed objectively, claimant failed to establish that her concerns constituted reasons of such gravity that no reasonable and prudent office assistant of normal sensitivity, who was interested in remaining employed, would conclude she had no alternative but to quit her job when she did without first asking the owner to personally intervene and speak with the office manager about being more respectful with claimant.

Claimant voluntarily left work without good cause and 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-87475 is affirmed.

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

**DATE of Service:** August 18, 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, and 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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