

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-1009

Affirmed
Disqualification

PROCEDURAL HISTORY: On June 27, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 120342). Claimant filed a timely request for hearing. On August 2, 2017, ALJ S. Lee conducted a hearing at which the employer did not appear, and on August 10, 2017 issued Hearing Decision 17-UI-90138, affirming the Department's decision. On August 23, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Willamina Lumber Company employed claimant as a millwright in its mill in Tillamook, Oregon from approximately May 4, 2017 until June 4, 2017.

(2) When the employer hired claimant, claimant was living in Lyons, Oregon. When claimant accepted the job with the employer, he told the employer that he was of the Christian faith and he was not willing to work a work schedule if it conflicted with his attendance at Christian meetings held on Sundays in the day and Thursdays in the evening. Claimant moved to Tillamook to accept the job with the employer. Claimant's initial work schedule was day shifts on Tuesdays through Fridays. That initial schedule did not create a conflict with the Christian meetings.

(3) Sometime after he was hired, several of claimant's coworkers told claimant that the employer had a practice of moving its millwrights every six months to a different machine area and having them work on different machines. Claimant had not known previously of this practice and did not like it. Claimant preferred to specialize in one machine area and become familiar with it. Claimant thought that rotating periodically through different machine areas would be stressful and disruptive. Claimant never confirmed with the employer that its practice was to assign millwrights to different machine areas every six months and, if so, whether the employer intended to have claimant rotate assignments in accordance with this practice.

(4) As claimant's employment progressed, claimant came to dislike residing in Tillamook. Claimant regretted that he had moved from Lyons to accept work with the employer in Tillamook.

(5) Shortly before June 4, 2017, claimant's supervisor told him his work schedule was going to change to become day shifts on Saturdays through Tuesdays. Claimant told the supervisor that he would quit rather than work that schedule since it conflicted with his attendance at Christian meetings on Sundays. Claimant's supervisor told claimant he could be assigned to swing shifts, which did not create a conflict with the Sunday Christian meetings. Claimant told the supervisor he would not work swing shifts.

(6) On June 4, 2017, claimant quit work because he did not want to change the machine areas in which he worked every few months, had come to dislike living in the Tillamook area, and did not want to work swing shifts on Sundays.

CONCLUSIONS AND REASONS: Claimant voluntarily left work without good cause.

A claimant who leaves work voluntarily is disqualified from the receipt of benefits unless he proves, by a preponderance of the evidence, that he had good cause for leaving work when he 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 his employer for an additional period of time.

Although claimant initially contended that he quit work due to his work schedule having been changed in a way that precluded him from attending Christian meetings on Sundays, claimant conceded that, when he made this known to his supervisor, the supervisor was willing to change the shift that he worked to a swing shift that would have enabled him to attend the Sunday Christian meetings. Audio at ~11:31, ~13:40. Because claimant's supervisor offered him a reasonable alternative to quitting based on a conflict with the scheduled meetings on Sundays, and claimant offered no evidence that any reasons, let alone grave reasons, prevented him from working the swing shift on Sundays, claimant did not show that the change in his work schedule or working the swing shift was good cause for him to leave work.

In addition, while claimant might have preferred to rotate among machine areas every six months, he did not show that doing so would cause any grave harm to him. From claimant's description, it does not appear that claimant anticipated that the stress that would arise from this rotation was serious or would be significantly impairing to him in any way. As well, claimant also did not offer evidence suggesting or tending to suggest that continuing to reside in the Tillamook area, which he needed to do in order to work for the employer, would cause grave harm to him. Claimant did not offer any reasons for quitting work other than those discussed above. On this record, claimant did not show that grave reasons motivated him to leave work or that he had good cause for doing so.

Claimant did not show that he had good cause for leaving work. Claimant is disqualified from receiving unemployment insurance benefits.

DECISION: Hearing Decision 17-UI-90138 is affirmed.

J. S. Cromwell and D. P. Hettle.

DATE of Service: September 19, 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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