

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-1014

Affirmed
Disqualification

PROCEDURAL HISTORY: On June 2, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 82336). Claimant filed a timely request for hearing. On August 9, 2017, ALJ Seideman conducted a hearing, and on August 11, 2017 issued Hearing Decision 17-UI-90244, affirming the Department's decision. On August 28, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Aurora Innovations employed claimant in various capacities from August 10, 2012 until April 26, 2017, last as a helper in the maintenance department.

(2) Sometime before approximately April 13, 2017, claimant had a conversation with the employer's general manager. Claimant brought up that he wanted a pay raise. The general manager told claimant that, since claimant was unwilling to be assigned to the employer's New York operations and had for that reason been assigned to the maintenance department in Eugene, Oregon, he was already being paid more than most maintenance workers and he was not qualified for any higher paying positions that were available in Eugene. Claimant was displeased by the general manager's comments.

(3) After claimant's discussion with the general manager, claimant decided to pursue working on a gasoline pipeline in Alaska on which his father worked. Claimant was aware that as condition to being hired for a job on the Alaska pipeline, he needed to pass a drug and alcohol test.

(4) On April 13 2017, claimant told the employer's human resources coordinator that he was going to quit work based on the substance of his recent conversation with the general manager about a pay raise and because he was going to work with his father on the Alaska pipeline after spending some time in Washington state. Claimant told the coordinator that his last day would be April 26, 2017, which was the last day of the pay period.

(5) On April 26, 2017, claimant voluntarily left work. As of this date, claimant had not taken the drug and alcohol test for the job on the Alaska pipeline.

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). If a claimant leaves work to accept an offer of other work good cause exists only if the offer of work is definite and is to begin in the shortest length of time deemed reasonable under the individual circumstances. OAR 471-030-0038(5)(a).

As best can be ascertained from this record, claimant quit work because he thought the general manager had treated him unfairly when claimant understood him to state that he was “overpaid and underqualified” and because he had decided to seek work on the Alaska pipeline. Audio at ~7:28. Claimant did not dispute the context the general manager gave for the comment he made or the precise language that the general manager testified he had used, as set out in our findings. Audio at ~15:38. It appears that the general manager was merely commenting on the level of pay claimant was receiving relative to his skills and abilities, and said nothing that reasonably should have been construed as offensive or insulting. Absent more, the general manager’s comment was not a grave reason for claimant to have left work. To the extent that claimant’s desire to work on the Alaska pipeline may have motivated him to leave work, the record is not clear about whether claimant had received a firm job offer on the pipeline before he left work. In addition, that claimant expected to secure a job on the pipeline was not a sufficiently “definite” job offer to constitute good cause for claimant to leave work, since claimant testified such a job was contingent on him taking and passing a drug and alcohol test, which he had not done as of the date he quit work and which, if he did not pass it, would have resulted in any job offer being withdrawn. Audio at ~28:17, ~28:36. For both of these reasons, claimant did not show he had good cause for leaving work when he did.

Claimant did not meet his burden to show he had good cause for leaving work when he did. Claimant is disqualified from receiving unemployment insurance benefits.

DECISION: Hearing Decision 17-UI-90244 is affirmed.

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

DATE of Service: September 26, 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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