

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-1059

Affirmed
No Disqualification

PROCEDURAL HISTORY: On May 18, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work with good cause (decision # 144415). The employer filed a timely request for hearing. On August 18, 2017, ALJ Shoemake conducted a hearing, and on August 25, 2017, issued Hearing Decision 17-UI-91223, affirming the Department's decision. On September 6, 2017, the employer filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Jersey Mike Subs employed claimant from sometime in February 2016 until April 13, 2017, last as a team leader.

(2) Claimant worked for a franchise of Jersey Mike Subs located in Bend, Oregon. During claimant's employment, claimant was a student attending school in Bend. Claimant was from Salem, Oregon, where his parents lived. In Bend, claimant lived with roommates while working for the employer and attending school.

(3) Sometime around March 13, 2017, claimant's roommates informed claimant that they were leaving and would no longer be paying their share of the rent. Claimant could not afford to remain in the shared residence without the roommates' contributions to the rent. Upon receiving information that the roommates would be leaving, claimant looked "constantly" for new roommates or a rental residence that he could afford, including looking at advertisements, reviewing available rentals on Craigslist and other sites, and asking his friends and acquaintances. Audio at ~14:49. The housing market in Bend was tight and it was especially difficult for a student, like claimant, to find affordable rental housing. Claimant could not locate affordable housing in Bend.

(4) Sometime around the end of March 2017, claimant's parents offered to allow him to live with them in their residence in Salem. The owner of the franchise in Bend did not own any franchises in the Salem area into which claimant could have transferred. The employer could do nothing to assist claimant in locating affordable housing in Bend.

(5) Around March 30, 2017, claimant notified his manager that he was quitting work because he needed to move in with his parents in Salem.

(6) On April 13, 2017, claimant voluntarily left work.

CONCLUSIONS AND REASONS: Claimant voluntarily left work with 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.

Claimant’s testimony at hearing about the housing market in Bend and his inability to locate affordable rental housing in that town, despite making diligent efforts, was not disputed. Claimant’s inability to find affordable housing in Bend constituted a grave circumstance. Because the employer could not help him find housing in Bend that he could afford, it appears that claimant’s only reasonable alternative was to move in with his parents in Salem. Since claimant’s employer did not have any franchises in Salem into which claimant could have transferred, claimant had no reasonable alternative other than to quit work as a consequence of moving to Salem. Accordingly, on this record, claimant had good cause to leave work when he did.

Claimant left work with good cause. He is not disqualified from receiving unemployment insurance benefits based on his work separation from the employer.

DECISION: Hearing Decision 17-UI-91223 is affirmed.

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

DATE of Service: October 5, 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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