

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-1132

Affirmed
Disqualification

PROCEDURAL HISTORY: On July 21, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 132414). Claimant filed a timely request for hearing. On August 31, 2017, ALJ Amesbury conducted a hearing, and on September 1, 2017 issued Hearing Decision 17-UI-91822, affirming the Department's decision. On September 20, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

We considered claimant's written argument and the entire hearing record in reaching this decision.

FINDINGS OF FACT: (1) Toyota-Scion of Gladstone employed claimant for one day, on June 23, 2017, as a sales representative.

(2) On May 19, 2017, the employer's sales manager trained claimant regarding sales tactics the employer expected claimant to use when selling vehicles. The sales manager told claimant that the employer expected claimant to make a relationship with each customer and encourage each customer to purchase the highest priced vehicle possible. The sales manager directed claimant to report to him if a customer behaved as though the customer did not want to purchase a vehicle. The manager told claimant that he would tell claimant what to say to the customer and expected claimant to repeat what he said to the customer. He stated that, in this manner, the sale would "go through" and "that's how we make money." Audio Record at 10:12 to 10:22. The sales manager did not instruct claimant to state any specific lies or to engage in illegal activity.

(3) Claimant anticipated that the sales tactics the sales manager instructed her to use would violate her personal morals and ethics and would damage her reputation as a salesperson. Claimant told the sales manager that she was not willing to lie to customers. The manager told claimant that the sales tactic was "just manipulating the words and getting [the customer] to understand it in a different way," and not lying. Audio Record at 15:07 to 15:21. Claimant did not attempt to sell a vehicle on June 23. The employer expected claimant to make her first attempt to sell a vehicle on June 24, 2017.

(4) On June 24, 2017, claimant was not able to work due to a dental emergency. Claimant was scheduled to work again on June 27, 2017.

(5) The employer had not required claimant to lie to a customer during a sale before claimant quit. The employer did not tell claimant specific lies she was required to tell customers. Claimant did not discuss her concerns with a different manager, a supervisor or human resources because she did not feel the employer's workplace would "work for her." Audio Record at 21:13 to 21:25.

(6) On June 27, 2017, claimant did not contact the employer or report to work. Claimant quit work because she believed some of the employer's sales tactics would violate her personal morals and ethics regarding honesty.

CONCLUSIONS 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 has the burden to show that no reasonable and prudent person would have continued to work for the employer for an additional period of time.

Claimant voluntarily left work because the employer's sales tactics conflicted with her personal morals and ethics regarding honesty. As a preliminary matter, we note that employers make business choices that employees disagree with but may reasonably expect employees to implement. The mere fact that an employee disagrees with an employer policy does not give her good cause to quit, even if the employee feels working for the employer might at some point in the future require her to violate her personal ethics or morals. To establish good cause to quit, an employee who leaves work because she disagrees with a policy or practice, or feels it violates her personal ethics, must show a reasonable and prudent person, of normal sensitivity, exercising ordinary common sense in her circumstances, would also conclude the employer's actions gave her no choice but to leave work.

It is understandable that claimant was not willing to engage in sales tactics that she found to be dishonest. However, when claimant told the sales manager that she would not lie to customers, the manager told claimant the tactic was to "manipulate" words, and was not lying. Although claimant interpreted the manager's instructions as requiring her to be dishonest, the record fails to show that the employer instructed or expected her to lie, or to engage in illegal activity to sell vehicles. Nor does the record show that claimant engaged in even one car sale where claimant was required to be dishonest or engage in extreme sales practices, or was unable to avoid dishonesty without facing adverse employment consequences. Absent such a showing, claimant failed to show that a reasonable and prudent sales representative of normal sensitivity, exercising ordinary common sense in her circumstances, would conclude that the employer's business sales tactics gave her no reasonable alternative but to leave work when she did without at least attempting to sell cars or discussing her

concerns with the employer to verify that she was required to act dishonestly to sell cars. Accordingly, we conclude claimant left work without good cause and is disqualified from receiving unemployment insurance benefits based on this work separation.

DECISION: Hearing Decision 17-UI-91822 is affirmed.

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

DATE of Service: October 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, 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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