

**EMPLOYMENT APPEALS BOARD DECISION**  
**2017-EAB-1204**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On July 6, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 121356). Claimant filed a timely request for hearing. On September 29, 2017, ALJ S. Lee conducted a hearing, and on October 10, 2017 issued Hearing Decision 17-UI-94165, affirming the Department's decision. On October 18, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Fred Meyer Stores, Inc. employed claimant, last as an assistant manager, from November 2004 to June 13, 2017.

(2) Since January 2017, claimant filled in for the employer as a department manager even though she had no training in that role. In March 2017, she applied for the manager position she had been doing and was not hired because the employer considered her unqualified for it. The employer continued to use claimant to fill in as manager despite her lack of qualifications. Claimant felt the work was stressful.

(3) On June 3, 2017, the employer suspended claimant for four days for discarding an employee's sports drink bottle and moving her backpack near the lost and found. Claimant had taken those actions because she believed the employee was out of compliance with the employer's rules and did not believe she had done anything wrong; the employer considered claimant's actions to amount to harassment of the employee.

(4) Claimant returned to work after her suspension and was given the option of stepping down from management to a full time cashier job or continue working as an assistant manager. Claimant did not want the cashier job, and while she was willing to continue as an assistant manager, was not willing to work under the restrictions the employer intended to impose upon her. The employer also asked claimant to sign a document about the incident that had resulted in her suspension, which claimant thought would be admitting to guilt for that incident when she felt she had done nothing wrong.

(5) Claimant did not want to accept either option the employer gave her. She was also interested in leaving her job to move to California to take care of family there. On June 13, 2017, claimant quit her job. Claimant had not moved to California at the time of the hearing in this matter.

**CONCLUSIONS AND REASONS:** We agree with the ALJ 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 must show that no reasonable and prudent person would have continued to work for her employer for an additional period of time.

Claimant did not quit work due to a situation of such gravity she had no reasonable alternative but to leave work. Claimant described at the hearing that she felt stress that was too much for her to handle, but did not describe the effect that stress had on her as being so severe that a reasonable and prudent person would have had to quit over it, particularly given that just a couple of months prior to quitting she had sought a promotion to the stressful manager position she had been doing for months. Claimant did not assert or show that the restrictions under which the employer expected her to work as an assistant manager were so oppressive, or that working as a cashier would have been so unpleasant, that no reasonable and prudent person would have tolerated those conditions. With respect to her desire to move to California, claimant did not show it was more likely than not that she needed to quit work in June to move, or that the reasons she wanted to move were so grave that she had to quit work in June, particularly since she still had not completed her move at the time of the hearing, almost four months later. Generally speaking, to establish good cause for voluntarily leaving work claimant must establish that she derived some sort of benefit from leaving. *See Oregon Public Utility Commission v. Employment Dep’t.*, 267 Or. App. 68, 340 P.3d 136 (2014) (so stating). Other than the elimination of some work-related stress, which, as mentioned above, was not grave, claimant did not describe any legally significant benefit she derived from quitting work. For those reasons, we conclude that claimant voluntarily left work without good cause. She is, therefore, disqualified from receiving unemployment insurance benefits because of this work separation.

**DECISION:** Hearing Decision 17-UI-94165 is affirmed.

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

**DATE of Service:** November 16, 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](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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