

**EMPLOYMENT APPEALS BOARD DECISION**  
**2017-EAB-1398**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On October 31, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 124848). Claimant filed a timely request for hearing. On November 29, 2017, ALJ S. Lee conducted a hearing, and on December 1, 2017, issued Hearing Decision 17-UI-98069, affirming the Department's decision. On December 5, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

With her application for review, claimant submitted a written argument. However, she failed to certify that she provided a copy of her argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). Claimant's argument also contained information that was not part of the hearing record, and failed to show that factors or circumstances beyond claimant's reasonable control prevented her from offering the information during the hearing as required by OAR 471-041-0090 (October 29, 2006). For these reasons, EAB did not consider claimant's argument or any information not received into evidence at the hearing when reaching this decision.

**FINDINGS OF FACT:** (1) Arizona Shower Doors of Oregon LLC employed claimant as a customer service representative (CSR) from September 1, 2017 to October 9, 2017.

(2) The employer was based in Arizona, where its corporate offices, including its Human Resources Department (HR), were located. Claimant worked in a small Oregon branch with approximately 35 employees, but no local HR office. When claimant was hired, she received an employee handbook that set out a procedure for making complaints of any kind including "issues with coworkers," including "Please contact your supervisor, one of the managers, or Human Resources with all complaints." Transcript at 20. Claimant read the handbook and understood that the procedure was to go to her direct

supervisor (K) or branch manager (D) first and then contact the corporate office if the matter was not handled. Transcript at 14.

(3) Claimant was new to her position, which consisted of taking phone calls from customers or potential customers, preparing quotes for them, and answering any questions that they had. She was given a resource manual to use but it was thick and contained lots of information. It was hard for claimant to use on the spot especially given her recent introduction to the job. Claimant was essentially trained on the job by her supervisor K who, after initial training, was not always available to consult. In those instances, when she had questions, claimant consulted with the other CSRs, whom claimant considered helpful with the exception of T, whom claimant believed did not like her.

(4) Early in her employment, when claimant asked T to answer a question for her, she “was just very rude. I’d ask her a question about a certain thing, she looked at me and told me figure it out, look at your book...this book is about as thick as a Webster’s dictionary.” Transcript at 7. Claimant considered T to be rude on almost a daily basis and found it upsetting and stressful. Claimant eventually went to K to complain about T’s behavior toward her and K told her that she would speak to T about her behavior.

(5) After about a week, T’s behavior did not change, and on October 2, claimant again spoke to K about the issue. Claimant let K know that she did not believe she could handle the hostility and that if T’s behavior toward her did not change, she would leave her position. K again responded that she would speak to T, but once again T’s behavior did not improve.

(6) On October 9, 2017, claimant was preparing a complex quote for a customer and another CSR told claimant that a different customer that claimant had prepared a quote for previously was on the line with questions. Claimant asked the other CSR to take the call, which he agreed to do. However, T, who sat between claimant and the other CSR, rudely told claimant that since claimant had previously spoken with the customer, she should be the one to answer any questions. Claimant again became upset over T’s conduct and after she finished what she was working on, she went to D’s office and told him that she was quitting immediately because she could not work with T. Claimant did not discuss her earlier complaints to K with D. D accepted her resignation.

(7) Before quitting, claimant did not contact or attempt to contact the employer’s HR office about her unresolved complaints against T.

**CONCLUSIONS AND REASONS:** We agree with the ALJ. Claimant voluntarily left work without good cause.

A claimant who leaves work voluntarily is disqualified from the receipt of benefits unless she (or he) 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 P2d 722 (2010). A claimant who quits work must show that no reasonable and prudent person would have continued to work for the employer for an additional period of time.

Claimant quit because of her coworker's negative behavior toward her which she described as creating an "unhealthy" and "very negative" work environment. Transcript at 6. Harassment at work can, under some circumstances, amount to good cause. *See McPherson v. Employment Division*, 285 Or 541, 557 (1979) (claimants not required to "sacrifice all other than economic objectives and \*\*\* endure racial, ethnic, or sexual slurs or personal abuse, for fear that abandoning an oppressive situation will disqualify the worker from unemployment benefits"). However, although T's behavior toward claimant caused her to become upset and stressed, claimant did not assert or show that T's behavior was so extreme that it exceeded the type of rude or boorish behavior workers might typically encounter in work environments where coworkers work in close quarters. Moreover, although claimant admitted at hearing that she understood that the procedure for making complaints against coworkers was to go to her direct supervisor (K) or branch manager (D) first and then contact the corporate HR office if the matter was not handled, she went no further than complaining to K twice about T's behavior before abruptly quitting after only five weeks on the job. Claimant failed to show that taking the objectively reasonable steps of requesting D's intervention or that of the employer's corporate HR office would have been futile and that no reasonable and prudent CSR, of normal sensitivity and exercising ordinary common sense in her circumstances, would conclude, before having taken them, that she had no reasonable alternative but to quit work.

Accordingly, claimant failed to meet her burden to show that she voluntarily left work with good cause and is disqualified from receiving unemployment insurance benefits until she has earned four times her weekly benefit amount from work in subject employment.

**DECISION:** Hearing Decision 17-UI-98069 is affirmed.

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

**DATE of Service:** January 5, 2018

**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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