

**EMPLOYMENT APPEALS BOARD DECISION**  
**2018-EAB-0129**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On November 22, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 114244). Claimant filed a timely request for hearing. On January 25, 2018, ALJ Murdock conducted a hearing, and on February 2, 2018 issued Hearing Decision 18-UI-102421, affirming the Department's decision. On February 5, 2018, claimant filed an application for review with the Employment Appeals Board (EAB).

EAB considered claimant's written argument to the extent it was relevant and based upon the hearing record.

**FINDINGS OF FACT:** (1) Macy's West Stores employed claimant as a sales associate from June 12, 2017 to October 28, 2017.

(2) At all relevant times, claimant had rheumatoid arthritis and osteoporosis. She experienced inflammation, joint and back pain, difficulty walking, and gastrointestinal problems when exposed to emotional aggravation. Claimant's medical care providers advised claimant to manage her stress levels but did not advise her to quit her job.

(3) Claimant primarily worked in the women's better department. Claimant considered her department severely understaffed and thought her coworkers were hostile to her. She felt singled out, undertrained, blamed for unsatisfied customers, and that coworkers prevented her from doing her work. Claimant's coworkers complained that claimant yelled at them in front of customers and made them cry, but claimant thought that was untrue and thought instead that her coworkers "constantly yelled at her." Transcript at 9. Claimant considered one coworker "very, very bossy" because the coworker told her not to go to lunch after claimant's direct supervisor had directed her to do so. *Id.* Although some complaints about claimant were valid because she sometimes had difficult interactions with others when she felt overly frustrated and overworked, claimant considered the majority of them unwarranted.

- (4) Claimant occasionally worked in other departments and heard coworkers in those departments remark that claimant's regular department was bad, that the employees were rude and yelled, and that they would not work there again. Claimant thought employees in those other departments "thought I walked on water," and they complimented her for being "so knowledgeable," "so friendly and helpful." Transcript at 11.
- (5) Within the first month of claimant's employment, she complained to the store manager that she was not enjoying the department and was not getting along with her peers. Transcript at 50. Claimant asked for a transfer at that time. The store manager did not allow it because she preferred to try to resolve problems without transferring employees, and there were no transferrable job openings at that time.
- (6) Throughout the remainder of claimant's employment, she lodged complaints with her immediate supervisor, store manager and human resources about her coworkers. Claimant's coworkers also lodged complaints with management about claimant's behavior. Claimant was dissatisfied with the managers' responses to her complaints because she felt that "they had a very roundabout way of making it come around to you and making me the only person accountable" by "constantly" bringing claimant into the office instead of her coworkers. Transcript at 9. Claimant felt that management treated her with disregard by bringing her into the office at the end of her shift, making her late for an after-work appointment. Ultimately, claimant began to feel that no one in management "was actively looking into my concerns nor did they appear to be concerned about the negative work environment" and that the working conditions in the women's better department were going to remain the same. Transcript at 7.
- (7) On October 5, 2017, the employer approved claimant to transfer from the women's better department to the men's furnishings department. Claimant had worked well with the men's furnishings manager and was looking forward to the transfer. Sometime shortly thereafter, claimant reviewed her work schedule. She thought she was supposed to start in the men's furnishings department immediately but was told because of the way the computers and scheduling worked "it was going to be a good while" and could take several weeks to a couple of months before the transfer took effect. Transcript at 13.
- (8) Between October 5, 2017 and October 15, 2017, one of claimant's coworkers submitted a two-page complaint that claimant made her cry in front of customers. Claimant's supervisor asked claimant about the alleged incident. Claimant denied it, and said the report was fabricated. The supervisor did not issue claimant a warning or discipline her based upon the coworker's report.
- (9) On approximately October 15, 2017, the employer's human resources person discussed claimant's transfer with her and told her that she could do a manual transfer of claimant's shifts from the women's better department to the men's furnishings department that would allow claimant's transfer to take effect sooner than if the transfer was left to the automatic scheduling processes. With the manual transfer claimant's transfer could take effect as early as October 29, 2017.
- (10) On October 15, 2017, the store manager and assistant store manager called claimant to a meeting shortly before her shift ended to discuss recent incidents claimant's coworkers and customers had reported wherein claimant was rude, did not provide customer service, showed frustration to a customer who wanted to use coupons, and had raised her voice at customers and coworkers. The manager wanted claimant to write an action plan about improving her behavior at work. Claimant disagreed with the complaints. She felt the complaints were not factual or valid and that she "was still being accused of

multiple things that they had collected and written up [over the course of months] and wanted me to respond to.” Transcript at 22.

(11) Claimant had to leave for the day before completing the action plan. Management told her that she could do the action plan the next day during her scheduled shift. On October 16, 2017, claimant did not report to work because she felt too ill. On October 17, 2017, claimant reported to work as scheduled. She had decided by then that “this was going nowhere.” Transcript at 24. She felt things were too hostile and unhealthy, and notified the employer that she would resign in two weeks.

(12) After submitting her resignation, claimant spoke with the human resources person about her transfer to men’s furnishings and offered to stay in her women’s better department position until her employment ended. Claimant and the human resources person also agreed that claimant would end her employment on October 28, 2017 for the employer’s administrative convenience.

(13) After submitting her resignation on October 17, 2017, claimant thought and slept on the resignation. She decided she was willing to keep working “if I knew for sure I was going to the men’s department” because she “was looking forward to the new manager . . . working with the manager of that department.” Transcript at 59. On October 18, 2017, claimant asked to rescind her resignation. The employer declined to allow her to do so. Effective October 28, 2017, claimant quit work.

**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). Claimant had rheumatoid arthritis and osteoporosis, which may be considered permanent or long-term “physical or mental impairments” as defined at 29 CFR §1630.2(h). A claimant with those impairments who quits work must show that no reasonable and prudent person with the characteristics and qualities of an individual with such impairments would have continued to work for her employer for an additional period of time.

Claimant had a lot of concerns about her working conditions, including some coworkers who treated her with hostility and the disregard with which she felt store management sometimes treated her and her complaints. At the time claimant submitted her resignation and quit work, however, her transfer out of the women’s better department, and away from the coworkers she thought treated her with hostility, had been approved by management. Human resources had worked with claimant to make the transfer occur faster. She had worked with the manager in the men’s furnishings department before and was looking forward to the transfer, and had generally had a good experience working with coworkers outside of the women’s better department. Given those factors, it appears that at the time claimant both resigned and quit her job the employer had responded to claimant’s complaints and taken steps to remove claimant from the work environment that she found caused her aggravated stress. As such, the circumstances that existed at the time claimant quit work cannot be said to have been so grave that no

reasonable and prudent person with impairments such as claimant's would have continued to work for the employer for an additional period of time. Such an individual would, rather, have likely continued to work until such time as she could have ascertained whether the transfer she sought and obtained had sufficiently resolved her concerns about her working conditions, coworkers and management. We therefore conclude that claimant did not quit work due to a situation of such gravity that an individual with impairments such as those claimant experienced would not have continued to work for the employer for an additional period of time.

Claimant quit work without good cause. She therefore is disqualified from receiving unemployment insurance benefits because of her working conditions.

**DECISION:** Hearing Decision 18-UI-102421 is affirmed.

J. S. Cromwell and D. P. Hettle;  
S. Alba, not participating.

**DATE of Service:** March 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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