

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-0287

Affirmed
Disqualification

PROCEDURAL HISTORY: On January 31, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause (decision # 131159). Claimant filed a timely request for hearing. On March 1, 2018, ALJ Janzen conducted a hearing, and on March 2, 2018 issued Order No. 18-UI-104346, affirming the Department's decision. On March 22, 2018, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Adecco USA Inc., a temporary agency, employed claimant as a material handler for its client from December 18, 2017 to January 8, 2018. At hire, claimant agreed to work for \$13 per hour, although she had been searching for work that paid at least \$15 per hour. Claimant's regular schedule was Monday through Thursday from 4:45 a.m. to 3:15 p.m. Claimant was informed that she would be trained by a lead worker during the first two weeks of her employment.

(2) During claimant's first week of employment, claimant worked under the supervision of a lead worker assigned to train her. However, claimant learned that the client's factory was going to be closed from Monday, December 25, 2017 through Monday, January 1, 2018, and that the client therefore had no work available for her that week. Claimant had not been told that before taking the job, and was upset over the lack of work, training and pay during that time. Claimant complained to the employer's on-site representative, but the client had no other work available for claimant.

(3) When claimant returned to work on Tuesday, January 2, 2018, she learned that the lead worker who had been training her was out that week, and no one else was assigned to train her. From January 2 through Thursday, January 5, 2018, claimant did not feel that she received adequate assistance from another lead worker and other employees she asked for help, and complained to the employer's on-site representative about her lack of training. The on-site representative raised the issue with the client, which informed the representative that claimant was meeting the clients performance expectations, her job was not in jeopardy, and she would gradually receive additional training. The on-site representative conveyed that information to claimant.

(4) On Monday, January 8, 2018, the lead worker that had trained claimant during her first week of employment returned to work. The lead worker did not continue actively training claimant, but did help claimant when she asked for assistance. Claimant did not ask the lead worker to continue actively training her, or complain to the employer or its client that the lead worker had stopped doing so.

(5) Claimant quit work because she was unhappy with her rate of pay, upset over the lack of work and pay from December 25, 2017 through Monday, January 1, 2018, and felt that her training was inadequate.

CONCLUSIONS AND REASONS: We agree with the Department and the ALJ that claimant quit working for the employer 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 quit work, in part, because she was unhappy with her rate of pay, and upset over the lack of work and pay from December 25, 2017 through January 1, 2018. However, claimant failed to establish that the cost of working for the employer exceeded the pay she received, that continuing to work for the employer substantially interfered with her ability to search for other work, or that quitting work improved her financial situation in any way. Absent such showings, we cannot find that no reasonable and prudent person in claimant’s situation would have continued to work for her employer for an additional period of time.

Claimant also quit work, in part, because she felt her training was inadequate. During claimant’s first week of employment, however, she worked under the supervision of a lead worker assigned to train her. Although the lead worker was absent one week, another lead worker and other employees attempted to assist claimant when she asked for help. The employer’s on-site representative assured claimant that she was meeting the client’s performance expectations, that her job was not in jeopardy, and that she would gradually receive additional training. When the lead worker returned to work, he helped claimant when she asked for assistance. Viewed objectively, claimant’s perceived lack of training was not such that a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would quit work, especially without asking the lead worker to continue actively training her, or reporting to the employer or its client that the lead worker had stopped doing so.

Claimant quit work without good cause, and is disqualified from receiving benefits based on her work separation from the employer.

DECISION: Order No. 18-UI-104346 is affirmed.

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

DATE of Service: April 17, 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. 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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