

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-0319

Affirmed
Disqualification

PROCEDURAL HISTORY: On February 22, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 114659). Claimant filed a timely request for hearing. On March 26, 2108, ALJ Griffin conducted a hearing, and on March 27, 2018 issued Order No. 18-UI-106018, affirming the Department's decision. On April 24, 2018, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) The City of Eugene, employed claimant from April, 2005 to January 27, 2018. From April, 2005 to 2012 claimant worked as a part-time victim's advocate in the prosecutor's office, and from 2012 to January 27, 2018, claimant worked as a senior administrative specialist in the city's recreation department.

(2) While working at the prosecutor's office, claimant had a strained relationship with her lead worker, A. A was critical of claimant when claimant took time off to care for claimant's sick children and would become upset when claimant asked to take personal time off. A reported claimant's absences to claimant's supervisor as poor attendance and complained that claimant was not getting her work done. However, claimant never received a negative performance review from her supervisor.

(3) A offered claimant unneeded, unsolicited and misguided advice concerning how claimant should perform her duties. Claimant felt that A's tone was rude and condescending. Claimant also felt that A was always unpleasant and in a bad mood. When claimant reported A's behavior to her supervisor, her supervisor would speak with A, which would result in A retaliating against claimant by not speaking to claimant, sometimes for days.

(4) Working with A, caused claimant stress and anxiety. However, there is no evidence in this record that claimant ever sought medical treatment. Claimant did not want to work with A, and asked her supervisor if either she or A could be moved to a different position within the prosecutor's office. Claimant's supervisor said that was not possible.

(5) Claimant met with the human resources office and discussed her working relationship with A. Claimant asked human resources to rectify her working conditions, but they told claimant that her only option was to apply for a different position within the city, for which claimant had to go through the hiring process, and receive an offer.

(6) Claimant and A continued to work at the prosecutor's for seven years, until 2012 when the recreational department hired claimant as a senior administrative specialist.

(7) After working for the recreation department for approximately five and one-half years, claimant learned that the department had hired A as an office coordinator to work at one of the department's facilities. Claimant's duties included overseeing the department A would be working in. Claimant would be responsible for processing A's payroll and would be A's first point of contact if A was had any difficulty with her duties. While claimant and A would not be working in the same office, they would have some contact, especially as A learned her new position. However, claimant was unsure of how much contact she and A would have.

(8) Claimant went to her supervisor at the recreation department and discussed with him the difficulties she had experienced working with A, while at the prosecutor's office. Claimant told her supervisor that she did not want to work with A again. The supervisor told claimant there was nothing he could do.

(9) Claimant also went to the human resources department and told them about her inability to work with A because of her previous experiences with A. The human resources department did not keep records of claimant's previous complaints about A. Claimant asked the human resources department to either "not hire A" in the recreational department, or transfer claimant to a different position within the city. The human resources department told claimant that they could not do what she requested. The human resources department told claimant that if she wanted another position with the city, she had to go through the regular hiring process, and receive an offer.

(10) Claimant believed that A had discriminated against her because claimant had a child and she worked part-time.

(11) Claimant voluntarily left work because she did not want to work with A, and because she believed that she had no other recourse.

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

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 voluntarily left work, in part, because she “did not want to work with A again,” and because she did not believe that the department would take any corrective action with regards to A’s future behavior. Audio recording at 10:00 to 11:00. Claimant argued that A discriminated against her and was abusive to her. Audio recording at 26:00. In order to establish good cause to quit work, claimant has to establish that she experienced actual discrimination or undue harassment, the facts in this record do support that finding. Claimant described A’s behavior as “condescending and rude,” “treated me like crap, stopped talking to me” and “the way she treated me was absolutely ridiculous.” Audio recording at 12:30 to 14:00. Claimant also described A as “overbearing,” and “in a bad mood every day, not positive and always unpleasant.” Audio recording at 20:00 to 25:00. It does appear that this was an unpleasant working relationship, but it sounds more like a personality conflict between claimant and A, rather than harassment or abuse. However, a personality conflict between one’s co-workers or supervisor does not constitute good cause to quit work. Claimant did not give any specific examples of A’s behavior, except that A was critical of claimant and told claimant’s supervisor that claimant’s attendance was poor, and that claimant was not doing her work. In fact, claimant chose to continue working with A for seven years under the circumstances, which she now claims were so grave that she is unable to work with A again. Claimant did not face a situation of such gravity that a reasonably prudent person would consider quitting as the only reasonable alternative.

Even if we found that claimant faced a grave situation, claimant had reasonable alternatives to leaving work when she did. It had been over five years since claimant and A worked together, and it appears that the issues between claimant and A stemmed primarily from the fact that A was claimant’s lead worker. The opposite would have been true now, therefore one can infer that A’s behavior towards claimant might have been more restrained. In addition, claimant was not sure how much contact she would have with A, “it could have been a lot or a little.” Audio recording at 10:55. Claimant could have continued working for the recreation department, until after A came on board, to determine if claimant and A still had a rancorous relationship. Furthermore, claimant could have brought any future conflicts with A, to either her direct supervisor or the human resources department and allowed them to take corrective action. While the corrective action that claimant’s supervisor took at the prosecutor’s office may not have been what claimant hoped for, the record shows that claimant’s supervisor, addressed claimant’s concerns with A.

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-106018 is affirmed.

DATE of Service: May 1, 2018

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

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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