

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-0345

Affirmed
Disqualification

PROCEDURAL HISTORY: On February 27, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 92136). Claimant filed a timely request for hearing. On March 27, 2018, ALJ Shoemake conducted a hearing, and on March 30, 2018, issued Order No. 18-UI-106365, affirming the Department's decision. On April 9, 2018, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Family Solutions employed claimant from November 6, 2017 until claimant voluntarily left work on December 28, 2017.

(2) The employer originally hired claimant to work as a part time case manager for 20 hours per week at \$13.79 per hour. Sometime after claimant's employment began, she began working 10 hours per week as a relief worker in addition to her 20 hours as a case manager. The employer paid claimant \$11.39 per hour for the relief worker hours she worked.

(3) On December 13, 2017, the employer eliminated claimant's part time case manager position for business reasons. The employer gave claimant the option of quitting work or continuing to work as only a relief worker. The employer would allow claimant to work the number of hours she wanted to work, up to 40 or more hours per week, as a relief worker. Her relief worker wage remained the same at \$11.39 per hour. Claimant worked 30 hours per week after December 13 as a relief worker.

(4) On December 28, 2017, claimant quit work because the employer eliminated claimant's case manager position and claimant was dissatisfied with the pay rate for the relief worker position.

CONCLUSION AND REASONING: We agree with the Department and the ALJ and conclude 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 the employer for an additional period of time.

OAR 471-030-0038(5)(d) provides that an individual who leaves work due to certain kinds of reductions in pay may establish good cause for quitting, but that rule specifically states that the good cause provisions do not apply to situations where the pay reduction occurred because of a “transfer, demotion or reassignment.” Claimant was reassigned from a combination role of case manager and relief worker to performing only the relief worker position. Therefore, although she had a reduction in her hourly wage, it was not the sort of pay cut that might constitute good cause for quitting work under OAR 471-030-0038(5)(d).

Claimant asserted that her financial situation worsened due to the elimination of the case manager position, and she was unwilling to continue working for the employer because she wanted to have time to look for other work that paid a higher wage. Audio Record at 11:19 to 11:59, 14:01 to 15:07. Although the relief worker position paid less per hour, claimant had the option of working 40 hours or more as a relief worker, which would have resulted in an increase in her income as compared to when she was working 20 hours as a case manager and 10 hours as a relief worker. Although it is understandable claimant would want to reserve time to look for a higher paying position, claimant also had the option of continuing to work, but fewer than 40 hours per week as a relief worker. Had she done so, she would have had both an income and time to look for work. The record does not show that claimant needed to quit her job to be available to look for other work, or that quitting work and eliminating all income benefitted claimant or otherwise averted a grave situation presented by continuing to work for the employer. The record also does not show that no reasonable and prudent person of normal sensitivity, exercising ordinary common sense in claimant’s circumstances, would have continued to work for the employer in a position that paid a lower wage rather than concluding, as claimant did, that she had to quit.

We therefore conclude that claimant quit work without good cause, and she is disqualified from receiving unemployment insurance benefits because of this work separation.

DECISION: Order No. 18-UI-106365 is affirmed.

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

DATE of Service: May 8, 2018

NOTE: You may appeal this order 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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