

**EMPLOYMENT APPEALS BOARD DECISION**  
**2018-EAB-0354**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On February 7, 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 # 92506). Claimant filed a timely request for hearing. On March 29, 2018, ALJ Amesbury conducted a hearing, and on April 2, 2018 issued Order No. 18-UI-106409, affirming the Department's decision. On April 10, 2018, claimant filed an application for review with the Employment Appeals Board (EAB).

EAB reviewed the entire hearing record and claimant's written argument. In his argument, as at hearing, claimant asserted that he quit work, in part, to return to being available to care for his disabled daughter. Claimant also asserted, for the first time, that his promotion from loader and package handler to driver trainee only further interfered with his ability and availability to care for his daughter because the employer's drivers were required to work day shifts with no alternative, making claimant unavailable to care of his daughter. However, we did not consider claimant's new information when reaching this decision because claimant did not establish that factors or circumstances beyond his reasonable control prevented him from offering the information at the hearing. *See* OAR 471-040-0090 (October 29, 2006).

Even if we had considered claimant's new information, our decision would have remained the same. Where an individual quits work due to a grave situation resulting from the individual's own deliberate actions, to establish good cause, the individual must show that he had no reasonable alternative but to act as he did. OAR 471-030-0038(5)(g) (August 3, 2011) Thus, to the extent that accepting the promotion to driver trainee created a grave situation for claimant by further interfering with his ability and availability to care for his daughter, to establish good cause, claimant was required to show that he had no reasonable alternative but to accept the promotion. At hearing, claimant failed to make that showing.

On *de novo* review and pursuant to ORS 657.275(2), Order No. 18-UI-106409 is **adopted**.

**DECISION:** Order No. 18-UI-106409 is affirmed.

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

**DATE of Service:** May 10, 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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