

**EMPLOYMENT APPEALS BOARD DECISION**  
**2018-EAB-0470**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On March 22, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work with good cause (decision # 135926). The employer filed a timely request for hearing. On April 10, 2018, ALJ Monroe conducted a hearing, and on April 18, 2018 issued Order No. 18-UI-107681, concluding claimant voluntarily left work without good cause. On May 1, 2018, claimant filed an application for review with the Employment Appeals Board (EAB).

EAB considered claimant's argument to the extent it was based upon the hearing record. EAB did not consider claimant's new information because she did not establish that factors or circumstances beyond her reasonable control prevented her from presenting the information during the hearing. *See accord* ORS 657.275; OAR 471-041-0090.

**FINDINGS OF FACT:** (1) Asset Collections, Inc. employed claimant as a sales representative from April 4, 2016 to September 26, 2017.

(2) In 2016 the employer began filing claims on behalf of bankruptcy proceeding claimants. The employer was new to that type of case and adjusted its process and work assignments a couple of times, including upon claimant's recommendations. For example, claimant learned at one point that the employer was required to obtain written authorization from claimants prior to acting on their behalf, and believed the employer had inadequate authorization to file those claims. Claimant notified the employer of that requirement and the employer implemented new procedures consistent with the information claimant had provided.

(3) In mid-2017, the employer decided to stop pursuing new claims in bankruptcy proceedings but still had a number of pending claims that had already been filed. In August 2017 the owner tried to assign the existing claims to claimant, but she declined to work on them because of her concerns that the employer had not followed the correct procedures, and because her work was supposed to be in sales rather than collections. The owner began working on the outstanding bankruptcy claims himself.

(4) On September 25, 2017, claimant learned of an issue with a bankruptcy claimant that convinced her that the employer had not had the appropriate authorization to file the claim on that claimant's behalf. On September 26, 2017, claimant became convinced that the owner wanted her to call that bankruptcy claimant and lie about the employer's involvement in the claim. Claimant was unwilling to do so, and quit her job effective September 26, 2017.

**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). 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 had a variety of sincere and factually grounded concerns about the manner in which the employer was handling claims involving bankruptcy claimants. However, it appears that the employer was responsive to claimant when she voiced her concerns, allowed claimant to decline to work on the cases that caused her concern, and was phasing out those sorts of cases in its workload. Under those circumstances, claimant's concerns did not amount to a situation of such gravity that she had no reasonable alternative but to quit work over them.

The final incident that caused claimant to quit work when she did appears to have occurred on September 26, 2017, when, claimant alleged, the employer required her to lie to a bankruptcy claimant. The employer denied having done so, and testified that he merely told her to start making her regular business calls that day. The employer's witness, although physically present during the exchange between claimant and the employer that caused claimant to quit her job, did not hear the entire exchange and was unable to establish with any certainty whether claimant's or the employer's version was more accurate. The record is therefore left with two witnesses who testified sincerely and plausibly to directly opposing versions of the same event, leaving the evidence equally balanced. Where the evidence is equally balanced, the party with the burden of persuasion – here the claimant – has failed to meet her burden. We therefore conclude that claimant has failed to show that the employer required her to lie to a bankruptcy claimant, and, because claimant quit work over that incident, has failed to show that she quit work with good cause. Claimant therefore is disqualified from receiving unemployment insurance benefits because of her work separation.

**DECISION:** Order No. 18-UI-107681 is affirmed.

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

**DATE of Service:** June 1, 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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