

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-0543

Affirmed
Disqualification

PROCEDURAL HISTORY: On April 26, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 82656). Claimant filed a timely request for hearing. On May 25, 2018, ALJ Amesbury conducted a hearing at which the employer did not appear and issued Order No. 18-UI-110211, affirming the Department's decision. On May 30, 2018, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) S B I employed claimant as sales manager from sometime in July 2013 until March 28, 2018.

(2) When claimant was hired, the employer paid him a salary of \$45,000 per year. Claimant understood he would receive increases in salary at times in the future. Around 2016, the employer increased claimant's salary to \$46,000 per year.

(3) The employer was owned by three partners. Claimant thought the partners were not candid with each other about business-related matters. Individual partners would often give claimant conflicting advice about how to handle business matters. Sometimes individual partners would instruct claimant not disclose certain information to the other partners. Claimant would refuse to conceal that information from the other partners and would tell the requesting partner that he could not because was responsible to each partner. Sometimes, claimant felt stress when dealing with the three partners.

(4) Around approximately late 2016, claimant consulted with his physician about some physical issues that he was experiencing. Claimant did not attribute these issues to workplace stress. Claimant's physician, however, prescribed some medication to claimant to alleviate stress-related symptoms.

(5) In approximately September 2017, claimant was offered a new job which he did not accept because he wanted to remain with the employer.

(6) Sometime around approximately the beginning of 2018, a new person assumed the position of production manager for the employer. Claimant thought the new production manager lacked knowledge of the employer's products and was not proficient in understanding English. As a result of the deficiencies of the new production manager, claimant had to assume some responsibilities that previously those of the prior production manager. Claimant's increased role in production caused his job to become "even harder." Audio at ~19:35.

(7) Sometime before March 28, 2018, claimant learned that other employees had recently received raises and increased benefits that claimant did not receive. At a meeting held on March 28, 2018, claimant was told that he would not receive a raise unless he made the employer more profitable. Based on planned actions and changes that were discussed during that meeting, claimant became convinced that it would be extremely difficult for the employer to become more profitable, and that it likely would not. As result, during the meeting, claimant became upset, concluded that he was not going to receive a raise, decided as an "instant thing" that he was going to quit work, and told the employer he was resigning. Audio at ~23:48.

(8) On March 28, 2018, claimant voluntarily left work.

CONCLUSIONS AND REASONS: Claimant voluntarily left work without good cause.

A claimant who leaves work voluntarily is disqualified from the receipt of benefits unless he proves, by a preponderance of the evidence, that he had good cause for leaving work when he 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). For a claimant has a permanent or long-term "physical or mental impairment" as defined at 29 CFR §1630.2(h), good cause for leaving work is such that a reasonable and prudent person with the characteristics and qualities of an individual with such impairment would leave work.

While claimant alluded to "stress" he experienced from the workplace, he did not present sufficient evidence to determine the nature of the underlying condition, if any, to which he was subjected as a result of that stress, and whether the condition constituted a permanent or long-term impairment. For that reason, the general standard for showing good cause, the standard of a reasonable and prudent person under the circumstances, has been applied.

It was apparent from claimant's description of the workplace that he was frustrated and thought he was being unfairly treated because other employees had received raises and benefits that he had not. While claimant might have dissatisfied with his job and displeased with the employer, claimant did not describe any harm to himself from being in the workplace that was objectively grave in nature or such that a reasonable and prudent person would have concluded that he or she had no reasonable alternative but to leave work. Claimant also did not show that he was subjected to abusive or egregiously unfair treatment in the workplace to the extent that an objectively grave situation was created from which he had no alternative but to leave. On this record, claimant did not demonstrate that he had good cause for leaving work when he did. Claimant is disqualified from receiving unemployment benefits.

DECISION: Order No. 18-UI-110211 is affirmed.

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

DATE of Service: June 26, 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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