

**EMPLOYMENT APPEALS BOARD DECISION**  
**2018-EAB-0726**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On June 15, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 94012). Claimant filed a timely request for hearing. On July 3, 2018, ALJ Snyder conducted a hearing at which the employer did not appear, and on July 11, 2018 issued Order No. 18-UI-112958, affirming the Department's decision. On July 18, 2018, claimant filed an application for review with the Employment Appeals Board (EAB).

EAB considered claimant's comments on the application for review when reaching this decision.

**FINDINGS OF FACT:** (1) Cholwell Benz & Hartwick CPAs employed claimant from sometime in December 2014 until May 17, 2018.

(2) Claimant and her husband moved to Oregon from their home state of Indiana some years ago. They both had large families that remained in Indiana. Sometime before December 2017, claimant's husband retired and they decided to return to Indiana when they sold their house in Oregon. Sometime before December 2017, their house sold and claimant's husband left Oregon for Indiana.

(3) Claimant's husband did not leave Oregon for new employment. While some of claimant's family members in Indiana were ill, claimant and her husband did not need to return to Indiana to provide care for ill family members.

(4) In December 2017, claimant notified the employer that she wanted to leave work to join her husband in Indiana. At the employer's request, claimant agreed to continue working for the employer through tax season and not to leave until mid-May 2018.

(5) On May 17, 2018, claimant voluntarily left work to move to Indiana and rejoin her husband.

**CONCLUSIONS AND REASONS:** 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) (January 11, 2018). Leaving work with good cause includes but is not limited to leaving work due to compelling family reasons. OAR 471-030-0038(5)(g). “Compelling family reasons” includes leaving work to care for an ill or disabled member of an individual’s immediate family and the employer does not accommodate the individual’s request for time off. OAR 471-030-0038(1)(e)(B). “Compelling family reasons” also includes the need to accompany the individual’s spouse or domestic partner to a place from which it is impractical to commute due to a change in location of the spouse’s or domestic partner’s employment. OAR 471-030-0038(1)(e)(C).

Although “compelling family reasons” as defined in OAR 471-030-0038(1) and (5)(g) would constitute good cause for claimant to leave work, none of the circumstances set out in those regulatory provisions is applicable to claimant’s work separation: claimant was not required to move to Indiana to care for an ill immediate family member and claimant did not follow her husband to Indiana because his employment required him to relocate to Indiana. Although claimant might still have good cause for leaving work under the general provision of OAR 471-030-0038(4) if she showed that grave reasons compelled her to leave work, she did not establish such gravity. For example, claimant did not suggest that had she decided to remain employed in Oregon indefinitely, her husband would have remained in Indiana without her, or that some other sort of seriously adverse consequence would have befallen her. While claimant and her husband might have desired to return to Indiana to fulfill an agreed-upon personal plan, failing to achieve that plan, without more, is not an objectively grave reason to leave work.

On this record, claimant did not show good cause for leaving work when she did. Claimant is disqualified from receiving unemployment insurance benefits.

**DECISION:** Order No. 18-UI-112958 is affirmed.

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

**DATE of Service:** August 14, 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.

**Please help us improve our service by completing an online customer service survey.** To complete the survey, please go to <https://www.surveymonkey.com/s/5WQXNJH>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.

