

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-0820

Affirmed
Disqualification

PROCEDURAL HISTORY: On July 11, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 81916). Claimant filed a timely request for hearing. On August 6, 2018, ALJ Janzen conducted a hearing, and on August 7, 2018 issued Order No. 18-UI-114480, affirming the Department's decision. On August 21, 2018, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Alsi Resort Ltd, employed claimant as a maintenance person from September 2016 until June 11, 2018.

(2) The employer operated a motel on the Oregon coast. The employer's business depended on tourism, with the summer months being a busy time and the winter months being a slow time. As a result, the employer reduced claimant's hours during the winter.

(3) During summer 2017, claimant worked approximately four days per week. Beginning in approximately October 2017, the employer reduced claimant's hours to approximately two days per week because the employer was entering its slow season. Claimant was displeased about the reduction in hours, and thought that the employer wanted him to accomplish in two days what he had been accomplishing during the summer in four days. Claimant also disliked it when the general manager and the employee who worked the front desk sometime specified the next work tasks he should perform. Claimant thought they were "really pushy" and treated him "like a dog." Audio at ~13:00, ~23:24.

(4) Sometime in approximately April or May 2018, claimant complained to the general manager about the reduced hours he was working during the employer's slow season. The general manager told claimant that the employer was still in its slow season and that the matter of the hours that claimant was scheduled to work would be reconsidered as the employer's business picked up in the summer.

(5) On June 11, 2018, claimant notified the general manager that he was quitting. Claimant quit work because his hours were still reduced, he thought the employer expected him to perform too much work

in those reduced hours and he felt the general manager and the front desk employee did not appreciate his 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) (January 11, 2018). 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 his employer for an additional period of time.

While claimant contended that the employer was urging him in the winter months to perform the same amount of work that he had performed during the summer months when he was working twice as many days per week, the general manager denied that claimant’s contention was accurate. The general manager credibly testified that there was less maintenance work to perform during the winter slow season and that he did not ask claimant to accomplish more that could be reasonably done in the number of days he was scheduled. Audio at ~44:00. Aside from generally asserting that the employer expected him to perform more work that was possible during the winter, claimant did not contend that he ever tried to complete this allegedly disproportionate volume of work, that he was spending unpaid time in an attempt to do so, that he sustained any deleterious consequences from this workload or that the employer threatened to discharge him if he was unable to complete all work assigned to him. Audio at ~15:48. Claimant did not identify any grave harm to himself that resulted from the reduced hours he worked during winter 2017-2018, or the volume of work he was allegedly expected to undertake.

Claimant also contended that he objected to the way in which the general manager and the front desk employee treated him. However, aside from the conclusory assertions that they were “pushy” and treated him “like a dog,” claimant did not identify any specific behaviors either of them engaged in that would have given rise to grave situation for him. Audio at ~13:00, ~23:24. For example, claimant did not present any concrete facts that suggested that they called him names or yelled at him, that they engaged in tirades against him, that he was the subject of slurs, personal insults or abuse, or that they otherwise created an oppressive work environment for him. Claimant did not demonstrate that the way in which either the general manager or the front desk employee treated him created a grave situation that left him no alternative but to leave work.

On this record, claimant did not meet his burden to show that objectively grave reasons caused him to leave work when he did. Because he did not show good cause, claimant is disqualified from receiving unemployment insurance benefits.

DECISION: Order No. 18-UI-114480 is affirmed.

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

DATE of Service: September 25, 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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