

**EMPLOYMENT APPEALS BOARD DECISION**  
**2018-EAB-0861**

*Reversed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On July 31, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 95018). Claimant filed a timely request for hearing. On August 27, 2018, ALJ Murdock conducted a hearing, and on August 30, 2018, issued Hearing Decision 18-UI-115837, affirming the Department's decision. On September 4, 2018, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Ferguson Wellman Capital Management (FWCM) employed claimant as a client relationship associate from March 17, 2014 to June 15, 2018.

(2) Claimant experienced difficulties working with her "direct report", a senior vice-president and portfolio manager at the employer, for whom she performed many work activities involving his clients, their CPAs and asset holders. Transcript at 9; Exhibit 1. She believed many of his instructions to her were unclear and he believed that she often just failed to perform satisfactorily many of the assignments he had given her. In early 2017, claimant's administrative supervisor presented claimant with a list of complaints the portfolio manager had forwarded discussion and resolution. Claimant disagreed with many of the complaints but she and the administrative supervisor worked together over the next several months to correct some the difficulties and it appeared that claimant made progress.

(3) Early in 2018, claimant became upset with the portfolio managers because of communications and conduct toward her which she often considered condescending, impatient and sometimes demeaning. Her interactions with him caused her stress which she related to her physician at routine appointments.

(4) On May 16, 2018, claimant's administrative supervisor and another employer representative met with claimant to discuss continuing complaints from the portfolio manager and indicated that a performance improvement plan would be prepared for her to assist her with improving her work performance. However, the subject matter, specific goals to be achieved and dates of the performance improvement plan were not specified and the plan was never developed, which added to claimant's stress.

(5) Claimant experienced difficulty sleeping and began to lose weight because of the anxiety she was experiencing over her work and work environment. On May 22, 2018, she met with her physician who immediately noticed her weight loss. After listening to claimant describe her work environment and difficulty sleeping, her physician prescribed her anti-anxiety medication and recommended that she quit her job to protect her health. Claimant planned to quit work. She did not discuss her physician's recommendation with the employer, but worked to complete various outstanding tasks at work so that when she quit the employer's clients would not be impacted by her departure.

(6) On June 1, 2018, claimant gave the employer two weeks' notice of her intent to quit work on June 15, 2018. On June 15, 2018, claimant quit her employment to protect her health.

**CONCLUSIONS AND REASONS:** We disagree with the ALJ, and conclude that claimant quit work with 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). 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 the employer for an additional period of time.

In Order No. 18-UI-115837, the ALJ concluded that claimant quit work without good cause, reasoning that although her physician had recommended that she quit work because of the anxiety, weight loss and difficulty sleeping she was experiencing as a result of her work stress, claimant failed to show that she faced a situation of such gravity that she had no reasonable alternative but to quit work when she did, particularly since she did not request a leave of absence or seek work with another employer before quitting. Order No. 18-UI-115837 at 2, 3. We disagree.

It was uncontroverted at hearing that claimant's work pressures over the prior months had caused her significant and noticeable weight loss, extreme difficulty sleeping and to experience "dread" at the thought of having to work each day with her the portfolio manager to whom she was assigned, to the extent that her physician prescribed her anti-anxiety medication and recommended that she quit her job to protect her health. Transcript at 17-18. As claimant described her circumstances just prior to quitting, "all I could do [was] go home and sort of keep it together, try to get as much sleep as I could, try to eat something and not think about [the employer] and then go back the next day." Transcript at 41. Nor was it disputed that claimant was presented with lists of complaints from the portfolio manager and that after the employer eventually told her a performance improvement plan would be developed to help her eliminate future complaints, she never received one even after claimant repeatedly requested that one be developed to assist her in improving her work product, all of which added to her stress. The record also fails to show that the employer had a human resources office available to assist her in pursuing an alternative other than quitting, nor that a leave of absence was even an option available for her to pursue. Finally, in Oregon, it is well-established that a worker need not seek other employment before quitting

in order to show that she (or he) had good cause to quit. *Hertel v Employment Division*, 80 Or App 784, 788 n5, *rev den*, 302 Or 456 (1986).

Viewing the record as a whole, claimant met her burden to show that no reasonable and prudent client relationship assistant in her circumstances, experiencing her symptoms of stress and being advised by her physician to leave work, would have continued to work for the employer for an additional period of time. Claimant therefore voluntarily left work with good cause and is not disqualified from receiving unemployment insurance benefits on the basis of her work separation.

**DECISION:** Order No. 18-UI-115837 is set aside, as outlined above.<sup>1</sup>

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

**DATE of Service: October 8, 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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<sup>1</sup> This decision reverses an order that denied benefits. Please note that payment of any benefits owed may take from several days to two weeks for the Department to complete.