

**EMPLOYMENT APPEALS BOARD DECISION**  
**2018-EAB-0864**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On July 26, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 154454). Claimant filed a timely request for hearing. On August 20, 2018, ALJ Murdock conducted a hearing at which the employer failed to appear, and on August 23, 2018, issued Order No. 18-UI-115478, 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) St. Charles Health System, Inc. employed claimant from September 12, 2016 until June 29, 2018 in patient admissions in a hospital emergency room.

(2) In November 2017, the employer gave claimant a written warning stating that three of claimant's coworkers complained about claimant's performance during a shift. Claimant contested portions of the warning with human resources.

(3) On a weekly basis, claimant's supervisor discussed work issues with claimant, including stating that claimant's coworkers complained about her being unfriendly and defensive towards coworkers. Claimant felt harassed by the supervisor's frequent comments and felt they were unfounded. Claimant began to experience headaches and tightness in her chest from work stress.

(4) On June 5, 2018, the employer gave claimant a final written warning stating that claimant was found sleeping during a shift and leaving patient registrations unfinished for others to complete during the next shift. Claimant disagreed with the warning because she had completed all her work during the shift at issue and asked her supervisor to verify her information. Claimant's supervisor did not dismiss the warning and told claimant "it will never fall out of [claimant's] file." Audio Record at 6:54 to 7:02. Claimant attended a meeting regarding the warning with her supervisor and a human resources representative. Claimant complained to human resources that the warning was unfounded. The human resources representative told claimant that the warning could result in claimant being discharged at any time and that the employer was "forcing [her] out," and that she would receive unemployment insurance

benefits if she just quit. Audio Record at 8:37 to 8:51. Claimant believed that any subsequent infraction could result in her being discharged, regardless of how much time passed.

(5) Claimant had never been discharged in her career and was concerned that the employer would discharge her in the future, damaging her work history. On June 12, 2018, claimant gave the employer notice that her last day of work would be her night shift that began on June 28, 2018.

(6) On June 29, 2018, claimant voluntarily left work at the end of her shift to avoid a potential discharge in the future because she had received a final written warning.

**CONCLUSION AND REASONS:** We agree with the ALJ and conclude claimant 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). 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.

Although claimant’s uncontested testimony showed that she did not engage in the conduct that led to her final written warning, claimant failed to show that receiving the final warning created a grave situation for her. In *McDowell v. Employment Department*, the Oregon Supreme Court held that a resignation to avoid a discharge that was not for misconduct could constitute good cause for leaving if, among other things, the discharge was inevitable and relatively imminent. In claimant’s case, although the record shows that claimant would likely be discharged if she failed to meet the employer’s expectations again in the future, the record does not show that a discharge was certain or imminent. A discharge was not certain based on the June 5 warning because the employer had completed its disciplinary process for that incident, and the record does not show that there were any pending incidents for which claimant faced additional discipline that could result in discharge at the time claimant gave notice to quit. Claimant’s last warning from the employer was in November 2017, six months before her final warning. Therefore, claimant’s disciplinary history also showed that discharge was not imminent where it might be another six months before she received another warning, if ever. Moreover, although it is reasonable to presume that a discharge on one’s employment history is undesirable, the record contains no evidence to show that the impact of a discharge from claimant’s job of working in admissions in a hospital emergency room would make it difficult for her to find another suitable job.

Claimant also suffered from headaches, chest pain and work-related stress. However, the record shows claimant left work to avoid a potential discharge sometime in the future, and not due to the impact of her work on her health. Nor does the record show that claimant’s health concerns were aggravated from her work to the extent that she had no reasonable alternative to leave work when she did.

For these reasons, claimant failed to establish that she had no reasonable alternative but to quit work when she did. We therefore conclude that claimant quit work without good cause, and is disqualified from receiving unemployment insurance benefits because of her work separation.

**DECISION:** Order No. 18-UI-115478 is affirmed.

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

**DATE of Service: October 5, 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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