

**EMPLOYMENT APPEALS BOARD DECISION**  
**2015-EAB-0368-R**

*EAB Decision 2015-EAB-0368 Adhered To On Reconsideration  
Eligible*

**PROCEDURAL HISTORY:** On January 30, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work with good cause (decision # 81315). The employer filed a timely request for hearing. On March 17, 2015, ALJ Shoemake conducted a hearing and issued Hearing Decision 15-UI-35232, affirming the Department's decision. On April 3, 2015, the employer filed an application for review with the Employment Appeals Board (EAB). On April 14, 2015, EAB issued Appeals Board Decision 2015-EAB-0368, affirming Hearing Decision 15-UI-35232. On April 24, 2015, the employer filed a request for reconsideration.

Under OAR 471-041-0145(1) (October 29, 2006), a party may request reconsideration of an EAB decision "to correct an error of material fact or law, or to explain any unexplained inconsistency with Employment Department rule, or officially stated Employment Department position, or prior Employment Department practice." In this case, EAB inadvertently issued a decision in this matter before the deadline for parties to provide written argument expired, thus depriving the employer of the opportunity to argue its case to EAB. We therefore allow reconsideration to reconsider our decision in this matter in light of the employer's argument.

In Appeals Board Decision 2015-EAB-0368 we affirmed that the Department and the ALJ correctly concluded that claimant voluntarily left work with good cause. In its request for reconsideration, the employer contended that the ALJ's conclusion – that claimant's need to leave to join his fiancé was a situation of such gravity that left claimant with no reasonable alternative but to quit work – was erroneous. The employer's primary argument was that claimant should be disqualified from receiving benefits because he failed to secure new employment prior to leaving work in August 2014, even though he became engaged to marry someone from another state a year earlier. However, there is no Department statute or rule that required claimant to secure a job before leaving in order to be qualified to receive benefits, and, since as early as 1982, the Oregon Court of Appeals has repeatedly and "expressly rejected the proposition that a claimant must seek other employment before quitting work in order to establish "good cause" under the rule." *See Strutz v. Employment Dept.*, 247 Or App 439, 270 P2d 357

(2011), citing *Warkentin v. Employment Dept.*, 245 Or App 128, 134-5, 261 P3d 72 (2011) (stating that whether a claimant could have continued to work longer is “beside the point” in a good cause analysis, and citing cases to that effect dating back to 1982).

The employer also argued that, due to Hearing Decision 15-UI-35232, “This order has placed the Employer, a public entity, in a situation where wages are now being paid for another employee to perform work and for claimant’s wages while he doesn’t work because he *chose* to leave his job all of a sudden.” However, the actual or potential financial obligations to an employer that result from a claimant’s claim for benefits is not relevant to the issue of whether claimant should be disqualified from receiving benefits. Employers’ chargeability issues are handled in separate “relief of charges” proceedings with the Department, and EAB does not have jurisdiction over those types of cases.

Based on our analysis of the applicable law, we therefore hold that we made no mistake of fact or law when we concluded that claimant voluntarily left work with good cause.

**DECISION:** The employer’s request for reconsideration is allowed. On reconsideration, we adhere to Appeals Board Decision 2015-EAB-0368. Hearing Decision 15-UI-35232 is affirmed.

Tony Corcoran and J. S. Cromwell;  
Susan Rossiter, not participating.

**DATE of Service:** April 29, 2015

**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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