

**EMPLOYMENT APPEALS BOARD DECISION**  
**2018-EAB-0890**

*Affirmed*  
*Overpayment Assessed*

**PROCEDURAL HISTORY:** On February 21, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for 1800 Flowers Team Services Inc. (the employer) without good cause on December 1, 2016, and therefore was disqualified from benefits from November 27, 2016 until she earned \$796 after December 4, 2016 (decision # 161142). Claimant filed a timely request for hearing. On March 22, 2018, ALJ Scott conducted a hearing, and on March 23, 2018 issued Order No. 18-UI-105839, affirming the Department's decision. On April 12, 2018, Order No. 18-UI-105839 became final without claimant having filed an application for review with the Employment Appeals Board (EAB).

On July 10, 2018, the Department served notice of an administrative decision, based on decision # 161142, concluding that claimant was overpaid \$1,140 in benefits for weeks from December 4, 2016 through March 4, 2017 that she must repay the Department (decision # 135740). Claimant filed a timely request for hearing. On August 20, 2018, ALJ Murdock conducted a hearing, and on August 23, 2018 issued Order No. 18-UI-115481, affirming the Department's decision. On September 12, 2018, claimant filed an application for review with EAB.

EAB reviewed the entire hearing record and claimant's written argument to the extent it was relevant and material to EAB's determination, and based on the hearing record. See ORS 657.275(2) and OAR 471-041-0090 (October 29, 2006). In her argument, as at hearing, claimant asserted that she only should have been disqualified for benefits for the two weeks she would have continued working for the employer if she had not quit, and, therefore, only should be required to repay the benefits she received for those two weeks. However, an individual who quits working for an employer without good cause is disqualified from receiving benefits until the individual has performed service in subject employment for which remuneration is received that equals or exceeds four times the individual's weekly benefit amount subsequent to the week in which the act causing the disqualification occurred. ORS 657.176(2). Decision # 161142 determined that claimant quit working for the employer without good cause on December 1, 2016, and therefore concluded that claimant was disqualified from benefits from November 27, 2016 until she earned \$796 after December 4, 2016. Order No. 18-UI-105839 affirmed Decision # 161142 and became final without claimant having filed an application for review with EAB.

Thus, as a matter of law, claimant was overpaid, and must repay, the \$1,140 in benefits she received for weeks from December 4, 2016 through March 4, 2017, before she earned \$796.

On *de novo* review and pursuant to ORS 657.275(2), the Order under review is **adopted**.

**DECISION:** Order No. 18-UI-115481 is affirmed.

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

**DATE of Service: October 10, 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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