

**EMPLOYMENT APPEALS BOARD DECISION**  
**2019-EAB-0470**

*Affirmed*  
*Request to Reopen Granted*  
*Disqualification*

**PROCEDURAL HISTORY:** On February 8, 2019, the Oregon Employment Department (the Department) served notice of an administrative decision (decision # 74908) concluding claimant quit working for the employer without good cause and was denied benefits beginning December 23, 2018 (week 52-18) (decision # 74908). Claimant filed a timely request for hearing. On February 28, 2019, the Office of Administrative Hearings (OAH) served notice of a hearing scheduled for March 14, 2019. On March 14, 2019, claimant failed to appear at the hearing, and ALJ Murdock issued Order No. 19-UI-126403, dismissing claimant's hearing request due to her failure to appear.

On March 21, 2019, claimant filed a request to reopen the hearing. On April 25, 2019, ALJ Shoemake conducted a hearing, and on May 3, 2019 issued Order No. 19-UI-129315, granting claimant's request to reopen but affirming decision # 74908. On May 7, 2019, ALJ Shoemake issued Amended Final Order No. 19-UI-129478, correcting Order No. 19-UI-129315 only by changing the effective date of the denial from December 23, 2018 (week 52-18) to January 6, 2019 (week 02-19). On May 15, 2019, claimant filed a timely application for review of Order No. 19-UI-129478 with the Employment Appeals Board (EAB).

Based on a *de novo* review of the entire record in this case, and pursuant to ORS 657.275(2), the portion of the order under review granting claimant's request to reopen the March 14, 2019 hearing is **adopted**. The remainder of this decision addresses whether claimant is disqualified from receiving benefits based on her work separation from the employer.

**FINDINGS OF FACT:** (1) Edward D. Jones & Company employed claimant as a branch office administrator from July 30, 2018 to January 12, 2019.

(2) Claimant's adult son struggled with drug addiction. In the past, he had threatened family members while under the influence of drugs. Claimant remained the only family member still willing to help and support son during the period of claimant's employment.

(3) On or about December 13, 2018, claimant's son had a serious drug relapse that frightened claimant. Claimant concluded that she needed to take time off work for an indefinite period of time to assist him, which she did. On or about December 27, 2018, claimant concluded that she needed additional time off work for the same reason. She requested, and the employer granted, an unpaid personal leave of absence beginning December 27, 2018 and ending January 11, 2019. However, when the employer granted claimant the leave of absence, it asked claimant to consider moving to an on-call position so she could have the time off of work she needed for her son, and the employer fill her current position with someone who could work full time, which was necessary for business reasons. Claimant agreed to move to an on-call position, effective January 12, 2019.

(4) On or about January 12, 2019, claimant realized she could not support her household waiting for on-call work opportunities to occur, and also believed that working on-call would interfere with her ability to find and secure other full time work. Consequently, on or about January 12, 2019, claimant quit her job with the employer to seek other work.

(5) If claimant had known that individuals who work part-time might remain eligible for unemployment insurance benefits, she would not have quit her job when she did.

**CONCLUSIONS AND REASONS:** Claimant voluntarily left work without good cause.

A claimant who leaves work voluntarily is disqualified from the receipt of benefits unless they prove, by a preponderance of the evidence, that they had good cause for leaving work when they did. ORS 657.176(2)(c); *Young v. Employment Department*, 170 Or App 752, 13 P3d 1027 (2000). "Good cause . . . is such that a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would leave work." OAR 471-030-0038(4) (December 23, 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 their employer for an additional period of time. Quitting work without good cause includes quitting suitable work<sup>1</sup> to seek other work. OAR 471-030-0038(5)(b)(A).

Claimant quit her part-time on call position with the employer to seek other work because she believed that remaining in that position would interfere with her return to full-time work elsewhere. However, claimant admitted that she had no basis for that belief other than own assumptions, and also admitted that if she had known she could potentially qualify for unemployment benefits while maintaining her on-call status and seeking other work, she would not have quit when she did. Audio Record ~ 19:00 to 20:30. <sup>2</sup>Claimant had the opportunity to remain with the employer in a suitable position as office administrator, albeit on a part-time, on-call basis working at various local offices. Rather than doing so, claimant quit to seek other work. Under OAR 471-030-0038(5)(b)(A) did not have good cause for leaving work for that reason when she did.

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<sup>1</sup> In determining whether any work is suitable for an individual, the Department considers, among other factors, the degree of risk involved to the health, safety and morals of the individual, the physical fitness and prior training, experience and prior earnings of the individual, the length of unemployment and prospects for securing local work in the customary occupation of the individual and the distance of the available work from the residence of the individual. ORS 657.190.

For the reasons stated, claimant did not meet her burden to show that she left work with good cause. Accordingly, she is disqualified from receiving unemployment insurance benefits based on her work separation until she requalifies for benefits under Employment Department law.

**DECISION:** Order No. 19-UI-129478 is affirmed.

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

**DATE of Service: June 17, 2019**

**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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# Understanding Your Employment Appeals Board Decision

## English

Attention – This decision affects your unemployment benefits. If you do not understand this decision, contact the Employment Appeals Board immediately. If you do not agree with this decision, you may file a Petition for Judicial Review with the Oregon Court of Appeals following the instructions written at the end of the decision.

## Simplified Chinese

注意 – 本判決會影響您的失業救濟金。如果您不明白本判決，請立即聯繫就業上訴委員會。如果您不同意此判決，您可以按照該判決結尾所寫的說明，向俄勒岡州上訴法院提出司法複審申請。

## Traditional Chinese

注意 – 本判決會影響您的失業救濟金。如果您不明白本判決，請立即聯繫就業上訴委員會。如果您不同意此判決，您可以按照該判決結尾所寫的說明，向俄勒岡州上訴法院提出司法複審申請。

## Tagalog

Paalala – Nakakaapekto ang desisyong ito sa iyong mga benepisyo sa pagkawala ng trabaho. Kung hindi mo naiintindihan ang desisyong ito, makipag-ugnayan kaagad sa Lupon ng mga Apela sa Trabaho (Employment Appeals Board). Kung hindi ka sumasang-ayon sa desisyong ito, maaari kang maghain ng isang Petisyon sa Pagsusuri ng Hukuman (Petition for Judicial Review) sa Hukuman sa Paghahabol (Court of Appeals) ng Oregon na sinusunod ang mga tagubilin na nakasulat sa dulo ng desisyong ito.

## Vietnamese

Chú ý - Quyết định này ảnh hưởng đến trợ cấp thất nghiệp của quý vị. Nếu quý vị không hiểu quyết định này, hãy liên lạc với Ban Kháng Cáo Việc Làm ngay lập tức. Nếu quý vị không đồng ý với quyết định này, quý vị có thể nộp Đơn Xin Tái Xét Tư Pháp với Tòa Kháng Cáo Oregon theo các hướng dẫn được viết ra ở cuối quyết định này.

## Spanish

Atención – Esta decisión afecta sus beneficios de desempleo. Si no entiende esta decisión, comuníquese inmediatamente con la Junta de Apelaciones de Asuntos Laborales. Si no está de acuerdo con esta decisión, puede presentar una Petición de Revisión Judicial ante el Tribunal de Apelaciones de Oregon siguiendo las instrucciones escritas al final de la decisión.

## Russian

Внимание – Данное решение влияет на ваше пособие по безработице. Если решение Вам непонятно – немедленно обратитесь в Апелляционный Комитет по Трудоустройству. Если Вы не согласны с принятым решением, вы можете подать Ходатайство о Пересмотре Судебного Решения в Апелляционный Суд штата Орегон, следуя инструкциям, описанным в конце решения.

**Khmer**

ចំណុចសំខាន់ – សេចក្តីសម្រេចនេះមានផលប៉ះពាល់ដល់អត្ថប្រយោជន៍គ្មានការងារធ្វើរបស់លោកអ្នក។ ប្រសិនបើលោកអ្នកមិនយល់អំពីសេចក្តីសម្រេចនេះ សូមទាក់ទងគណៈកម្មការឧទ្ធរណ៍ការងារភ្លាមៗ។ ប្រសិនបើលោកអ្នកមិនយល់ស្របចំពោះសេចក្តីសម្រេចនេះទេ លោកអ្នកអាចដាក់ពាក្យប្តឹងសុំឲ្យមានការពិនិត្យរឿងក្តីឡើងវិញជាមួយតុលាការឧទ្ធរណ៍រដ្ឋ Oregon ដោយអនុវត្តតាមសេចក្តីណែនាំដែលសរសេរនៅខាងចុងបញ្ចប់នៃសេចក្តីសម្រេចនេះ។

**Laotian**

ເອົາໃຈໃສ່ – ຄໍາຕັດສິນນີ້ມີຜົນກະທົບຕໍ່ກັບເງິນຊ່ວຍເຫຼືອການຫວ່າງງານຂອງທ່ານ. ຖ້າທ່ານບໍ່ເຂົ້າໃຈຄໍາຕັດສິນນີ້, ກະລຸນາຕິດຕໍ່ຫາຄະນະກຳມະການອຸທອນການຈ້າງງານໃນທັນທີ. ຖ້າທ່ານບໍ່ເຫັນດີນຳຄໍາຕັດສິນນີ້, ທ່ານສາມາດຍື່ນຄໍາຮ້ອງຂໍການທົບທວນຄໍາຕັດສິນນຳສານອຸທອນລັດ Oregon ໄດ້ໂດຍປະຕິບັດຕາມຄໍາແນະນຳທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄໍາຕັດສິນນີ້.

**Arabic**

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**Farsi**

توجه - این حکم بر مزایای بیکاری شما تاثیر می گذارد. اگر با این تصمیم موافق نیستید، بلافاصله با هیأت فرجام خواهی استخدام تماس بگیرید. اگر از این حکم رضایت ندارید، می‌توانید با استفاده از دستور العمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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