

**EMPLOYMENT APPEALS BOARD DECISION**  
**2019-EAB-0838**

*Reversed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On July 26, 2019, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause, and was disqualified from benefits effective June 9, 2019 (decision # 113300). Claimant filed a timely request for hearing. On August 22, 2019, ALJ Murray-Roberts conducted a hearing and issued Order No. 19-UI-135440, affirming the Department's decision. On August 29, 2019, claimant filed an application for review with the Employment Appeals Board (EAB).

EAB did not consider claimant's written argument when reaching this decision because they did not include a statement declaring that they provided a copy of their argument to the opposing party or parties as required by OAR 471-041-0080(2)(a) (May 13, 2019).

**FINDINGS OF FACT:** (1) Avamere at Seaside last employed claimant from May 14, 2019 to June 15, 2019. She had previously worked for the employer between 2015 and early May 2019.

(2) During her last term of employment, claimant and her husband resided in Seaside, Oregon. Their three grandchildren resided with them. Claimant and her husband had discussed moving to Baker City, Oregon, but had not yet moved there.

(3) In May 2019, claimant's husband lost his job in Seaside. He sought work in Seaside for about two weeks but was not able to get a job. He did some research and concluded he would have more job opportunities if he moved to Baker City, Oregon.

(4) Claimant's father bought a house for claimant and her husband in Baker City, Oregon and offered it to them. Claimant's husband made a final decision that they would move to Baker City where he would have a better chance of finding work.

(5) On June 1, 2019, claimant notified the employer that she intended to resign in two weeks. On June 15, 2019, claimant quit her job.

(6) The housing claimant's father provided needed a lot of work before it was habitable. From June 15, 2019 to June 30, 2019, claimant worked to make the Baker City residence habitable. On July 1, 2019, claimant moved to Baker City, Oregon.

**CONCLUSIONS AND REASONS:** Claimant voluntarily left work with 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.

The order under review concluded that claimant did not have good cause to quit her job because, "[w]hile claimant may have preferred to move to Baker City where her spouse felt the job prospects were better, she failed to establish that she faced a grave situation that necessitated her leaving work with the employer on June 15, 2019" because claimant's husband did not yet have a job in Baker City. Order No. 19-UI-135440 at 2. The order concluded that claimant had reasonable alternatives to leaving work when she did, including continuing to work in Seaside until her husband found a job in Baker City, or at least continuing to work an additional two weeks until moving on July 1<sup>st</sup> instead of quitting on June 15<sup>th</sup> to work on the new house in Baker City. *Id.* the record does not support those conclusions.

The record does not support the idea that claimant "preferred to move" when she did. Rather, claimant testified that her husband made a final decision that the family would move, which suggests that it was not up to claimant to move or stay according to her own preference, at least not if she wanted to maintain her family unit. Moving to maintain the family unit was a grave situation in this case.

Likewise, the record does not show that claimant had the alternative to continue working for the employer in Seaside until her husband obtained a job in Baker City. Doing so under the circumstances described would have required claimant to live apart from her husband for a significant and undetermined period of time, during which claimant would have to be the sole support for both her husband residence in Baker City and her own residence in Seaside. The record does not suggest that claimant had the financial ability to support two residences on her earnings from her employment with the employer. Nor does the record suggest how claimant and her husband would have been able to provide care for the three grandchildren who resided with them while living apart and supporting two households. Finally, claimant established that working an additional two weeks was not a reasonable alternative for her, because the house in Baker City required a lot of work to make it habitable for her family, and she needed the two weeks between quitting her job with the employer and moving to Baker City to make necessary improvements to the new residence before she and her family could live there.

Claimant voluntarily left work due to personal circumstances unrelated to her employment, which no employer could apparently have accommodated. Although claimant's decision to quit work was based upon her personal needs that were not attributable to the employer, the record shows that no reasonable and prudent person would continue working for the employer an additional period of time under the

circumstances described at the hearing. Claimant established good cause to quit her job, and she is not disqualified from receiving benefits because of this work separation.

**DECISION:** Order No. 19-UI-135440 is set aside, as outlined above.

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

**DATE of Service:** September 30, 2019

**NOTE:** This decision reverses an order that denied benefits. Please note that payment of benefits, if any are owed, may take approximately a week for the Department to complete.

**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 desisyon.

## 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 Empleo. Si no está de acuerdo con esta decisión, puede presentar una Aplicación 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 ໄດ້ ໂດຍປະຕິບັດຕາມຄຳແນະນຳທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄຳຕັດສິນນີ້.

**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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