

**EMPLOYMENT APPEALS BOARD DECISION**  
**2019-EAB-1185**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On November 5, 2019, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily quit work without good cause (decision # 145021). Claimant filed a timely request for hearing. On December 11, 2019, ALJ Janzen conducted a hearing, and on December 12, 2019 issued Order No. 19-UI-141132, affirming decision # 145021. On December 21, 2019, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant submitted a written argument. However, claimant's argument contained information that was not part of the hearing record, and did not show that factors or circumstances beyond claimant's reasonable control prevented him from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB considered only information received into evidence at the hearing when reaching this decision.

**FINDINGS OF FACT:** (1) Insperity PEO Services LP employed claimant as a brand ambassador from early October 2019 until October 8, 2019.

(2) Claimant worked promotional events involving Hello Fresh meal kits and travelled throughout the Portland metropolitan area. Claimant worked forty hours per week and earned \$13.00 per hour.

(3) Shortly after being hired, claimant became concerned with some of the employer's business practices. In particular, claimant was concerned that he did not get reimbursed for travel time or using his personal mobile phone to process customer transactions. Claimant also felt uncomfortable having to use an app on his personal phone to clock in and out of work, which also tracked his location, and being responsible for any loss to the employer's equipment that he was required to keep in his car.

(4) Claimant shared his work concerns with his manager, the employer's human resources department, and the Bureau of Labor and Industries. Claimant's manager told claimant that the employer's work practices were normal. Claimant's research into the employer's business practices did not suggest otherwise.

(5) On October 5, 2019 claimant accepted a job with UPS, which offered him fewer work hours but paid him \$532.13 per week. His UPS pay was greater than the \$520 per week he earned with the employer and the \$475 weekly unemployment insurance benefit amount he filed a claim for. Claimant could not start his new position until he passed UPS's background check.

(6) On October 8, 2019, claimant voluntarily quit his job with the employer while his UPS background check results were still pending.

**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). "[T]he reason must be of such gravity that the individual has no reasonable alternative but to leave work." OAR 471-030-0038(4). 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.

Claimant voluntarily quit his job because he was offered a position with UPS that paid more money working fewer hours and did not involve the same business practice concerns he had with the employer. Not being reimbursed for travel time, doing customer transactions on his personal cell phone, having his location tracked by the time clock app, and being liable for work items stored in his personal vehicle made claimant uncomfortable. However, the record does not show that those conditions were other than legal and standard practices in the industry. Claimant did not explain how the employer's business practices made claimant's work situation so grave that a reasonable prudent person of normal sensitivity and exercising ordinary common sense would have also quit; he therefore did not establish that his concerns about the employer's practices amounted to good cause for quitting his job.

Although claimant has not demonstrated that his work situation was grave, good cause can also exist when an individual leaves work to accept an offer of other work if the conditions set forth in OAR 471-030-0038(5)(a) are met, which includes the requirement that the offer of work must be definite. In this case, UPS's offer of work to claimant was conditional, and required that he first pass a background check before being hired. Although claimant was confident in his ability to pass UPS's background check, a conditional is not a definite offer. Because claimant quit his job to accept a conditional offer of other work, and he had not passed the background check before the date he quit work with the employer, claimant did not have good cause to quit work to accept UPS's offer of work under OAR 471-030-0038(5)(a).

Claimant had the burden to show that he quit work with good cause, and, for the reasons stated above, has not met his burden. Claimant therefore voluntarily left work without good cause, and is disqualified from receiving benefits based on this work separation.

**DECISION:** Order No. 19-UI-141132 is affirmed.

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

**DATE of Service: January 28, 2020**

**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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