

**EMPLOYMENT APPEALS BOARD DECISION**  
**2020-EAB-0252**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On January 17, 2020, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 131430). Claimant filed a timely request for hearing. On March 11, 2020, ALJ Wymer conducted a hearing, and on March 13, 2020, issued Order No. 20-UI-146203, affirming the Department's decision. On March 22, 2020, claimant filed an application for review with the Employment Appeals Board (EAB).

EAB considered claimant's written argument in reaching this decision to the extent it was based on information in the record.

**FINDINGS OF FACT:** (1) The Barbers employed claimant from August 2019 until November 26, 2019 as a stylist.

(2) Until October 2019, claimant lived with her parents in Oregon and did not pay rent. On October 21, 2019, claimant's parents moved to Nevada. Claimant moved into her grandmother's basement rental space, but did not pay rent. Claimant could have continued to live with her grandmother until approximately December 10, 2019, after which time claimant's grandmother had to clean the rental for paying renters who were moving in on December 15, 2019.

(3) The employer paid claimant \$16 per hour or 50% of what she generated in service sales, whichever amount was greater. Claimant worked an average of 30 hours per week (\$2,080 per month), but sometimes also worked coworkers' shifts for them. During November 2019, the employer paid claimant \$1,512. Claimant received a final paycheck for \$758 on December 10, 2019. Claimant worked fewer than 30 hours per week during November because she took some time off work during November to visit family in Nevada.

(4) On October 26, 2019, claimant gave notice to the employer that she planned to quit on November 26, 2019. Claimant did not tell the employer that she was quitting due to financial reasons. Had claimant asked for more hours, the employer would have given her "closer to 40 hours" of work per week. Audio

Record at 28:28 to 28:43. If claimant had worked 38 hours per week at \$16 per hour, she would have earned \$2,634 per month.

(5) There were two-bedroom apartments available near claimant's work for \$1,200 to \$1,400 per month. Claimant looked for a roommate, but did not find one. Claimant's regular monthly expenses other than rent totaled about \$1,048 per month and included a car payment and insurance, health insurance, food, gasoline, utilities and a telephone bill.

(6) On November 26, 2019, claimant quit work with the employer to move to Nevada to be with her parents for Thanksgiving and the "holidays," and to remain in Nevada, where she would live with her parents because she was unable to afford to pay rent on her own in Oregon. Audio Record at 20:41 to 20:55.

**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.

At hearing, claimant asserted that she quit work to move to Nevada to live with her parents because she could not afford to pay rent on her own in Oregon. Audio Record at 10:40 to 10:56. However, the record shows that claimant had reasonable alternatives to quitting work when she did on November 26, 2019. Claimant's income based on 30 hours of work per week was insufficient to cover the expense of rent and her other monthly expenses. However, claimant had the reasonable alternative of asking the employer for additional hours, and the record shows doing so would not have been futile because the employer would have given claimant "closer to 40 hours" per week. Based on the information in the record, claimant would have earned enough to pay rent and her other monthly expenses, totaling about \$2,248 per month, had she worked 40 hours per week. Moreover, claimant could have continued to look for a roommate to share expenses with her after she moved into an apartment.

Even had claimant been unable to afford moving into her own apartment, claimant had the reasonable alternative of continuing to work until December 10, 2019 before she quit and moved to Nevada. Claimant testified that she quit on November 26 rather than continuing to work for an additional two weeks until December 10 "because Thanksgiving was coming up and just to be with family for [the] holidays." Audio Record at 20:42 to 20:55. The record does not show that claimant faced a situation of such gravity that no reasonable and prudent person in her circumstances would have continued to live without paying rent and work for two additional weeks after November 26 until moving to Nevada after December 10.

Claimant failed to show by a preponderance of the evidence that she had good cause to leave work when she did on November 26, 2019. Claimant is therefore disqualified from receiving unemployment insurance benefits based on this work separation.

**DECISION:** Order No. 20-UI-146203 is affirmed.

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

**DATE of Service:** April 23, 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.

**Employment Appeals Board - 875 Union Street NE | Salem, OR 97311**  
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