

**EMPLOYMENT APPEALS BOARD DECISION**  
**2020-EAB-0271**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On January 15, 2020, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was denied benefits because he quit working for the employer without good cause (decision # 150528). Claimant filed a timely request for hearing. On March 9, 2020, ALJ Wymer conducted a hearing and issued Order No. 20-UI-145885, affirming the Department's decision. On March 11, 2020, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Safeway Stores Inc. employed claimant from March 15, 2019 to December 1, 2019.

(2) The employer hired claimant to work as a cashier for about \$11 per hour, and typically scheduled him to work close to 40 hours per week. In early June 2019, the employer increased claimant's pay to about \$16 per hour, and continued to schedule him to work close to 40 hours per week. It cost claimant \$60 to \$70 per month to commute to and from work.

(3) In November 2019, the employer notified claimant that, pursuant to a union contract, the employer was bringing in more senior employees from other departments to work as cashiers, and that on December 5, 2019 claimant would be demoted to courtesy clerk, his pay reduced to about \$11 per hour, and his hours reduced to less than 20 hours per week. The employer also informed claimant that the demotion and reduction in hours and rate of pay would continue indefinitely.

(4) On or about November 21, 2019, the employer notified claimant that he was being demoted to courtesy clerk, effective that day, but that his pay would not be reduced until December 5<sup>th</sup>. During Thanksgiving week, claimant worked 12 hours before being given several days off over the holiday weekend.

(5) On December 1, 2019, claimant quit work mainly because of the effect the reduction in hours and rate of pay on his earnings. Claimant also quit work, in part, to accept an offer of work from the United States Census Bureau, which was going to begin several months after claimant quit.

**CONCLUSIONS AND REASONS:** Claimant quit working for the employer 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.

In applying OAR 471-030-0038(4), if an individual leaves work due to a reduction in hours, the individual has left work without good cause unless continuing to work substantially interferes with return to full time work or unless the cost of working exceeds the amount of remuneration received. OAR 471-030-0038(5)(e).<sup>1</sup> If an individual leaves work to accept an offer of other work, good cause exists only if, among other things, the work is to begin in the shortest length of time as can be deemed reasonable under the individual circumstances. *See* OAR 471-030-0038(5)(a).

In the present case, claimant quit work mainly because of the effect a reduction in hours and rate of pay on his earnings. At hearing, did not assert that the reduction in hours substantially interfered with his ability to search for full time work with another employer. Although claimant testified that it cost him between \$60 and \$70 per month to commute to and from work, he identified no other costs of working for the employer. Audio Record at 20:30 to 21:30. Claimant therefore only had to work about 6.37 hours per month at his reduced rate of pay of about \$11 per hour to cover the cost of continuing to work for the employer. Claimant worked 12 hours during the week before he quit despite being given several days off for Thanksgiving, suggesting that he likely would have worked at least 12 hours during a typical week. Claimant therefore failed to show that the cost of continuing to work for the employer exceeded the remuneration he would have received. Thus, to the extent claimant quit work because of the effect of the reduction of hours and rate of pay on his earnings, he failed to establish that he quit work with good cause.

Claimant also quit work, in part, to accept an offer of work from the United States Census Bureau. However, that work was not going to begin for several months, and claimant failed to show that he could not have continued to work for the employer until shortly before he started his new job. Claimant

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<sup>1</sup> OAR 471-030-0038(5)(d) states that if an individual leaves work due to a reduction in the rate of pay, the individual has left work without good cause unless the newly reduced rate of pay is ten percent or more below the median rate of pay for similar work in the individual's normal labor market area, as determined by the Department using available research data compiled by the department. However, OAR 471-030-0038(5)(d) applies only when the employer reduces the rate of pay for the position the individual holds, and not when an employee's earnings are reduced as a result of transfer, demotion or reassignment. OAR 471-030-0038(5)(d)(A). Because claimant's earnings were reduced as a result of a demotion, OAR 471-030-0038(5)(d) does not apply.

therefore failed to show that the work was to begin in the shortest length of time reasonable under the circumstances, as required under OAR 471-030-0038(5)(a). Thus, to the extent claimant quit work to accept an offer of other work, he failed to establish that he quit work with good cause.

In sum, claimant failed to establish that he quit working for the employer good cause, and therefore is disqualified from receiving benefits.

**DECISION:** Order No. 20-UI-145885 is affirmed.

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

**DATE of Service:** April 15, 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](https://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**

هذا القرار قد يؤثر على منحة البطالة الخاصة بك، إذا لم تفهم هذا القرار، إتصل بمجلس منازعات العمل فوراً، و إذا كنت لا توافق على هذا القرار، يمكنك رفع شكوى للمراجعة القانونية بمحكمة الاستئناف بأوريغون و ذلك بإتباع الإرشادات المدرجة أسفل القرار.

**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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