

**EMPLOYMENT APPEALS BOARD DECISION**  
**2020-EAB-0502**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On May 5, 2020, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit work without good cause and was disqualified from receiving unemployment insurance benefits effective March 8, 2020 (decision # 150554). Claimant filed a timely request for hearing. On June 10, 2020, ALJ J. Williams conducted a hearing, and on June 12, 2020 issued Order No. 20-UI-151026, affirming the Department's decision. On June 30, 2020, claimant filed an application for review with the Employment Appeals Board (EAB).

**EVIDENTIARY MATTER:** Order No. 20-UI-151026 stated, "Exhibit 1 was admitted into evidence without objection." Order No. 20-UI-151026 at 1. However, although there was discussion at the hearing about the employer submitting documentation as an exhibit after the hearing was adjourned, documents the employer submitted to OAH after the hearing were not marked or identified in the record or order. The record also fails to show that claimant was given the opportunity to object to the documents' admission either at the hearing or at any time thereafter. Transcript at 62-64. Accordingly, the record shows that Exhibit 1 was not admitted into evidence, and EAB has not considered the employer's documents when reaching this decision.

**FINDINGS OF FACT:** (1) Orenco Systems Inc. employed claimant as a production facility technician from February 1, 2018 to March 13, 2020.

(2) On or about March 1, 2018, claimant was being trained by a senior technician to operate a vacuum system in a water test area. Claimant accidentally flipped a switch on a remote control device, which caused the vacuum system to overflow. In anger, the training technician forcefully "threw" the remote control device that was attached to the end of a crane cable, causing the cable to swing away from claimant. Transcript at 10-11. However, when the cable swung back, claimant had to duck to avoid being struck by the remote. Claimant thought the technician's conduct had endangered his personal safety, but rather than report it to his supervisor, the department manager or human resources, he "blew it off" and did not report the conduct to anyone. Transcript at 8.

(3) In April of 2018, claimant was using a hammer to pound fittings onto pipes when a female coworker startled him by touching him on his waist mid-swing, causing him to strike his hand with the hammer, injuring his finger. Claimant reported the incident to his supervisor who interviewed the female coworker. She explained that she did touch claimant, but only to alert him to her presence very near to the area where he was swinging the hammer. Although claimant believed the coworker had tried to touch him in a sexually harassing manner, he did not report the coworker's conduct to the employer's human resources department, and did not make that assertion in an incident report that he later signed. Although claimant believed the coworker had endangered his personal safety that day, he continued to work with her without further incident.

(4) In September 2019, claimant worked in a different department stacking products. One day, a fellow technician approached claimant and told him that he was stacking the product in the wrong area and it was "in the way." Transcript at 13. Claimant then asked a coworker who always worked in that department if the product as he had stacked it was in the coworker's way, and the coworker replied, "No. You're fine." Transcript at 13. The other technician and claimant then argued about where the product should be stacked, and when the technician raised his voice at claimant, claimant "gave him the finger," which "set him off." Transcript at 13. The two brought their dispute to the department manager and claimant's supervisor, and each explained their side with raised voices and foul language. After listening to their accounts, the supervisor told them they needed to act "professional" or they would be sent home. Transcript at 49-50. Claimant went home early that day because he believed the department manager and his supervisor had ignored the fellow technician's poor behavior, which might lead to further altercations.

(5) In early 2020, claimant's supervisor assigned claimant's department a production goal of creating 4,000 filters by a certain date. However, coworkers in claimant's department often were sent to other departments to help there, leaving claimant feeling that he had to achieve the department goal by himself, which he believed was impossible to do. Although claimant was not aware of any employee ever being disciplined for not meeting a team production goal, by March 12, 2020, claimant concluded that he "had had enough." Transcript 18.

(6) On March 13, 2020, about mid-way through the day, claimant quit work without notice because he was concerned about his personal safety based on his 2018 and 2019 experiences with coworkers, and was frustrated by the pressure he felt to meet the department production goal by himself.

(7) On March 14, 2020, claimant requested his job back because he "really needed the work," but the employer denied his request. Transcript at 17.

**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 quit work on March 13, 2020 because he was concerned about his personal safety based on experiences with coworkers in 2018 and 2019, and because he was frustrated by the pressure he felt to meet his department's 2020 production goal. However, claimant failed to meet his burden to show that those circumstances were so grave that he had no reasonable alternative but to quit when he did. The experiences with coworkers that caused claimant concern about his personal safety occurred between March 2018 and September 2019, but claimant never reported to the employer that he was concerned about his safety because of those coworkers and continued to work with those coworkers for six months to two years without further incident. Although claimant initially asserted that he alone was assigned to create 4,000 filters, which he thought was "impossible to do," he later admitted that "it was a team thing" and that he was not aware of any employee ever being disciplined for not meeting a team goal. Transcript at 17, 42, 45. Moreover, by requesting his job back just one day after claimant quit, claimant demonstrated that he did not consider his circumstances at work to be so grave that no reasonable and prudent person in those circumstances would have continued to work for the employer for an additional period of time after March 13, 2020.

Claimant voluntarily quit work without good cause and is disqualified from receiving unemployment insurance benefits until he has earned at least four times his weekly benefit amount from work in subject employment.

**DECISION:** Order No. 20-UI-151026 is affirmed.

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

**DATE of Service:** August 7, 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 ໂດຍປະຕິບັດຕາມຄໍາແນະນໍາທີ່ບອກໄວ້ຢູ່ຕອນຫ້າຍຂອງຄໍາຕັດສິນນີ້.

**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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