

**EMPLOYMENT APPEALS BOARD DECISION**  
**2020-EAB-0577**

*Reversed & Remanded*

**PROCEDURAL HISTORY:** On June 17, 2020, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant quit working for the employer without good cause and was disqualified from receiving unemployment insurance benefits effective March 8, 2020 (decision # 83749). Claimant filed a timely request for hearing. On July 14, 2020, ALJ Snyder conducted a hearing at which the employer failed to appear, and on July 21, 2020 issued Order No 20-UI-152397, affirming the Department's decision. On August 10, 2020, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Littleton Parks and Recreation employed claimant as a recreation coordinator from early February, 2020 to March 11, 2020. Claimant worked approximately 40 hours per week for the employer in Littleton, Massachusetts, for an hourly wage of \$28.70.

(2) After a few weeks on the job, claimant found her manager's communication style offensive, and learned that the employer might not permit her to continue working 40 hours per week, contrary to claimant's expectation when she began the job.

(3) Prior to her job with the employer, claimant had worked for the City of Portland as a full-time recreation coordinator. On March 9, 2020, claimant contacted the City of Portland and asked if she could return to her old job. She was told that she could not apply for that job unless she already worked for the City of Portland. Claimant was also told, "Let's get you in at whatever we can," after which she could apply for a coordinator job. Audio Record at 7:30 to 8:45. The person claimant spoke with at the City of Portland then emailed claimant "the hiring paperwork" for a full-time, entry-level position that paid \$20 per hour. Claimant was not given a specific start date but was instructed to complete the paperwork and return it to the City of Portland "when [she] got back," and "asap [as soon as possible]." Audio Record at 8:45 to 9:15.

(4) On March 11, 2020, claimant resigned from her coordinator job with the employer to accept the job offer from the City of Portland.

(5) On Monday, March 30, 2020, claimant went to the City of Portland to turn in her “hiring paperwork.” When she arrived, she learned that a hiring freeze had just been imposed by the City of Portland, and she would not be hired.

(6) Claimant’s weekly benefit amount was \$648.

**CONCLUSIONS AND REASONS:** Order No. 20-UI-152397 is reversed and this matter remanded.

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.

For purposes of determining good cause, OAR 471-030-0038(5) provides:

(a) If an individual leaves work to accept an offer of other work, good cause exists only if the offer is definite and the work is to begin in the shortest length of time as can be deemed reasonable under the individual circumstances. Furthermore, the offered work must reasonably be expected to continue, and must pay:

(A) An amount equal to or in excess of the weekly benefit amount; or

(B) An amount greater than the work left.

The record shows that the offer of work was definite, reasonably expected to continue, and would pay an amount equal to or in excess of claimant’s weekly benefit amount of \$648. Claimant had worked as a recreation coordinator for the City of Portland immediately prior to her job with the employer. Claimant wanted to return to that job, and the City of Portland wanted claimant to return to work for it in that capacity. To accomplish that end, the person claimant spoke to with the City of Portland suggested that she accept a full-time, entry-level position that paid \$20 per hour, and then apply for the position of recreation coordinator soon thereafter. More likely than not, the full-time, entry-level position that paid \$20 per hour would have begun “asap” after claimant returned to Portland. Claimant’s employment with the City of Portland was expected to continue, and would have paid claimant an amount in excess of her weekly benefit amount of \$648 [40 x \$20 = \$800].

However, after concluding that claimant quit work to accept an offer of work in Portland, Oregon, Order No. 20-UI-152397 further concluded that claimant quit work without good cause because “the offer of work was not to begin in the shortest length of time reasonable under the circumstances.”<sup>1</sup> The order reasoned that “claimant last worked for the employer on March 11, 2020 and did not expect to begin the

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<sup>1</sup> Order No. 20-UI-152397 at 3.

new offer of work until March 30, 2020.”<sup>2</sup> However, the record fails to show that claimant expected to begin her new job on a specific date. Rather, she was instructed to complete the paperwork and return it to the City of Portland “when [she] got back,” and “asap [as soon as possible].” The record does not show what activities claimant engaged in between March 11 and March 30, 2020 to prepare to leave her Massachusetts residence, move to Portland, and complete the activities necessary before she could report to the City of Portland to turn in her “hiring paperwork.” The record fails to show when and how long it took her to pack, discontinue her utilities, travel, unpack, and otherwise prepare to reside at her new residence. Without the development of the record regarding these facts and perhaps others that may arise at the hearing on remand, there is insufficient evidence to determine whether Monday, March 30, 2020 was the shortest length of time after claimant quit that could be deemed reasonable under her individual circumstances, and therefore whether claimant had good cause to quit when she did.

ORS 657.270 requires the ALJ to give all parties a reasonable opportunity for a fair hearing. That obligation necessarily requires the ALJ to ensure that the record developed at the hearing shows a full and fair inquiry into the facts necessary for consideration of all issues properly before the ALJ in a case. ORS 657.270(3); *see accord Dennis v. Employment Division*, 302 Or 160, 728 P2d 12 (1986). Because further development of the record is necessary for a determination of whether claimant quit work with good cause under the circumstances here, Order No. 20-UI-152397 is reversed, and this matter is remanded.

**DECISION:** Order No. 20-UI-152397 is set aside, and this matter remanded for further proceedings consistent with this order.

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

**DATE of Service:** September 2, 2020

**NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Order No. 20-UI-152397 or return this matter to EAB. Only a timely application for review of the subsequent order will cause this matter to return to EAB.

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<sup>2</sup> Order No. 20-UI-152397 at 3.



# 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 desisyong ito.

## 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.

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