

**EMPLOYMENT APPEALS BOARD DECISION**  
**2020-EAB-0582**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On June 29, 2020, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant quit work without good cause and was disqualified from receiving unemployment insurance benefits effective March 1, 2020 (decision # 92130). Claimant filed a timely request for hearing. On July 22, 2020, ALJ Buckley conducted a hearing, and on July 24, 2020, issued Order No. 20-UI-152545, affirming the Department's decision. On August 12, 2020, claimant filed an application for review with the Employment Appeals Board (EAB).

EAB considered claimant's written argument in reaching this decision.

**FINDINGS OF FACT:** (1) Dollar General employed claimant as a store manager from June 2018 until March 1, 2020.

(2) On approximately February 1, 2020, the employer assigned a new district manager to supervise several stores, including claimant's store. On February 16, 2020, an employee at the store claimant managed was unable to work their shift. The district manager, claimant's direct supervisor, told claimant he would have to work the employee's shift. Claimant did so, which caused him to work from approximately 6:00 a.m. until 10:30 p.m. Claimant was "frustrated" because he had to work two shifts in one day. Audio Record at 28:50.

(3) On March 1, 2020, claimant had the day off work. He normally worked six days per week. He received a text message from the assistant manager at claimant's store, and she asked claimant to cover a shift for an employee who was unable to work their shift. Claimant told the assistant manager he had been drinking alcohol and could not work. Subsequently, claimant had a telephone conversation with the district manager. Claimant was intoxicated and voluntarily quit his job during the conversation with the district manager.

(4) Later on March 1, 2020, the employer's vice president called claimant and offered to transfer him to another store as an assistant manager. Claimant was not willing to work with the district manager as his supervisor. The district manager would still have supervised him if he were to work at the other store. The employer has a human resources department, but claimant did not discuss his concerns about the district manager with the human resources department.

**CONCLUSIONS AND REASONS:** Claimant quit 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.

The parties' evidence conflicted regarding the March 1 telephone conversation between claimant and the district manager, which was the final incident that caused claimant to quit work. Claimant testified that he felt he had no alternative but to quit work on March 1, 2020 because the district manager knew claimant was intoxicated during their telephone call, yet kept "badgering" claimant to report to work regardless of claimant's intoxicated state. Audio Record 9:34 to 10:57. Claimant testified that refusing to work that shift was not a reasonable alternative because the district manager would ask him to do "other illegal things" and retaliate against claimant in the future if he did not quit. Audio Record at 14:11 to 15:25; 12:50 to 13:14. Claimant also testified that accepting a position at another store was not a reasonable alternative because, although the district manager would no longer be his direct supervisor, the district manager would still be one of claimant's supervisors and claimant was not willing to work with someone who asked him to work while intoxicated. Audio Record at 31:39 to 31:55. However, although the district manager testified that claimant was intoxicated during their March 1 conversation, he testified that claimant called to quit and denied that he insisted that claimant report to work that day. The parties' testimony was, at best, equally balanced.

The record does not show that claimant had good cause to quit because the preponderance of the evidence does not show that the district manager engaged in the behavior that allegedly caused claimant to quit. Nor does the record show that claimant otherwise faced a situation of such gravity that he had no reasonable alternative but to quit on March 1. Other than the conduct that the district manager denied occurred on March 1, claimant did not describe any behavior by the district manager that could reasonably be characterized as a type of abuse or oppression that would establish good cause for leaving work. *See e.g., McPherson v. Employment Division*, 285 Or 541, 591 P2d 1381 (1979) (claimants need not "sacrifice all other than economic objectives and, for instance, endure racial, ethnic, or sexual slurs or personal abuse, for fear that abandoning an oppressive situation will disqualify the work from unemployment benefits"; the law "does not impose upon the employee the one-dimensional motivation of Adam Smith's 'economic man'"). Claimant was "frustrated" about having to work a double shift on February 15, 2020, but the record does not show that incident caused grave working conditions for claimant. In sum, claimant failed to meet his burden as the claimant in a quit case to show that no

reasonable and prudent person in his circumstances would have continued to work for their employer for an additional period of time.

Claimant voluntarily left work without good cause and is disqualified from receiving unemployment insurance benefits based on his work separation.

**DECISION:** Order No. 20-UI-152545 is affirmed.

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

**DATE of Service: September 10, 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 desisyong.

## 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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