

**EMPLOYMENT APPEALS BOARD DECISION**  
**2021-EAB-0003**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On November 18, 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 22, 2020 (decision # 104307). Claimant filed a timely request for hearing. On December 15, 2020, ALJ Murdock conducted a hearing, and on December 16, 2020 issued Order No. 20-UI-157724, affirming the Department's decision. On December 28, 2020, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Active Telesource Inc. employed claimant as a customer service agent, last from January 7, 2020 to March 23, 2020.

(2) In early March 2020, the employer began to plan to change service delivery processes or close its offices in response to the COVID-19 pandemic. Employees were asked if they were willing and able to work from home. Claimant informed the employer that he was willing and able to work from home, but he was later informed that the account to which he was assigned had objected to the employer's agents performing their services from their homes. Employees for that account then continued to report to their office in Beaverton for work.

(3) On Sunday evening, March 22, 2020, the employer emailed a notice to their employees that their offices would be closed "effective immediately, and until further notice" due to COVID-19. Exhibit 1. The employer did not request that employees turn in their badges and did not indicate that the layoff would be permanent.

(4) Early on March 23, 2020, claimant went to the Beaverton office, gathered his belongings, turned in his badge to the manager onsite and informed her that he would be moving out of state. At 9:15 a.m. that morning, the manager sent an email to the employer's human resources manager, which stated, "[claimant] came in today and resigned, effective immediately...he's moving out of state." Audio Record at 15:45 to 16:20. The employer concluded that claimant had voluntarily resigned.

(5) On April 7, 2020, after rearranging the office to comply with social distancing requirements, the employer reopened its Beaverton office and called its entire staff, other than claimant, back to work.

(6) Claimant did not contact the employer for any reason after meeting with the Beaverton manager on March 23, 2020. In May 2020, claimant moved to Florida to live near his family because of the uncertainties of the COVID-19 pandemic.

**CONCLUSIONS AND REASONS:** Claimant quit work without good cause.

**Work Separation.** If the employee could have continued to work for the same employer for an additional period of time, the work separation is a voluntary leaving. OAR 471-030-0038(2)(a) (September 22, 2020). If the employee is willing to continue to work for the same employer for an additional period of time but is not allowed to do so by the employer, the separation is a discharge. OAR 471-030-0038(2)(b).

Although claimant initially asserted that the work separation was a “layoff...due to COVID,” he later admitted that on March 23, 2020 he went to the employer’s Beaverton office, gathered his personal belongings, and turned in his badge. He also confirmed that the Beaverton manager’s email to the employer that day that “[claimant] came in today and resigned, effective immediately...he’s moving out of state,” was “an accurate statement” of his conversation with her that day. Audio Record at 4:30 to 5:00; 18:15 to 19:30. Although claimant explained that he did not intend to quit on March 23, 2020, he did not explain why he turned in his badge that day and told the manager that he was moving “out of state” if he had not already planned to permanently move to Florida. Audio Record at 20:30 to 23:00. Claimant did not contact the employer after that date to inquire about returning to work, and he moved to Florida in May of 2020. More likely than not, claimant assumed that his move to Florida would occur before the layoff ended, and therefore quit work on March 23, 2020. Because claimant could have continued to work for the employer for an additional period of time after March 23, 2020, the work separation was a voluntary leaving on that date.

**Voluntary Quit.** 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) (September 22, 2020). “[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.

On March 23, 2020 claimant quit work because it appeared to him that the severity of the COVID-19 pandemic was increasing and he wanted to move to Florida to be closer to his family. Although claimant was understandably concerned about the severity of the pandemic, he failed to establish that being separated from his family during the pandemic was of such gravity that he had no reasonable alternative but to quit work. Also, as noted above, claimant likely quit work on March 23, 2020 because mistakenly assumed that his move to Florida would occur before the employer’s layoff ended. However, the employer’s layoff notice did not indicate that the layoff would be permanent, and claimant did not move

to Florida until May of 2020. Rather than quit work on March 23<sup>rd</sup>, claimant had the reasonable alternative of accepting the temporary layoff with the possibility of returning to work before he moved and, if not, quitting work when he moved.

Claimant voluntarily quit work without good cause and is disqualified from receiving unemployment insurance benefits effective March 22, 2020, and until he has earned at least four times his weekly benefit amount from work in subject employment.

**DECISION:** Order No. 20-UI-157724 is affirmed.

S. Alba and D. P. Hettle.

**DATE of Service:** January 29, 2021

**NOTE:** This decision denies payment of your Unemployment Insurance (UI) benefits.

However, you may be eligible for Pandemic Unemployment Assistance (PUA) benefits for the period you are not eligible for other benefits as long as you are unable to work, unavailable for work, or unemployed due to the COVID-19 public health emergency. PUA is a new unemployment benefits program available through the Oregon Employment Department in response to the COVID-19 pandemic.

Visit <https://unemployment.oregon.gov> for more information, to apply for PUA, or to contact the Oregon Employment Department using the “Contact Us” form. You can also apply for PUA by calling 1-833-410-1004, but please be aware that the PUA staff cannot answer questions about this decision that denies payment of regular Unemployment Insurance (UI) benefits.

**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.

**Please help us improve our service by completing an online customer service survey.** To complete the survey, please go to <https://www.surveygizmo.com/s3/5552642/EAB-Customer-Service-Survey>. You can access the survey using a computer, tablet, or smartphone. If you are unable to complete the survey online and need a paper copy of the survey, please contact our office.



# 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**  
 Phone: (503) 378-2077 | 1-800-734-6949 | Fax: (503) 378-2129 | TDD: 711  
[www.Oregon.gov/Employ/eab](http://www.Oregon.gov/Employ/eab)

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