

**EMPLOYMENT APPEALS BOARD DECISION**  
**2021-EAB-0086**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On October 27, 2020, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer with good cause and was not disqualified from receiving unemployment insurance benefits (decision # 120835). The employer filed a timely request for hearing. On January 12, 2021, ALJ Moskowitz conducted a hearing, and on January 20, 2021 issued Order No. 21-UI-159384, concluding that claimant quit work without good cause and was disqualified from receiving unemployment insurance benefits effective August 16, 2020. On February 3, 2021, claimant filed an application for review with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** Claimant's argument contained information that was not part of the hearing record, and did not show that factors or circumstances beyond claimant's reasonable control prevented them from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB considered only information received into evidence at the hearing when reaching this decision. EAB considered claimant's argument to the extent it was based on the record.

**FINDINGS OF FACT:** (1) St. Charles Health System Inc. employed claimant as a certified medical assistant in one of its clinics from August 3, 2020 to August 20, 2020.

(2) The employer hired claimant to work as a medical assistant "float" who would perform her professional duties for multiple providers, rather than just one provider, in the internal medicine section of one of its clinics. Transcript at 36. However, claimant believed that she had been hired to work for a specific provider in the internal medicine section and preferred not to work as a "float." Transcript at 33.

(3) The employer required its medical assistants to go through a training period immediately after being hired. From August 3, 2020 to August 16, 2020, claimant trained in the internal medicine section of her assigned clinic. During that period, claimant observed behavior by some coworkers that made her "uncomfortable." Transcript at 6. A "couple days" after she began work, claimant overheard female coworkers talk about their "vaginas" and observed them "feel" those areas and talk loudly enough about

the topic for claimant and people in the patient area to overhear. Transcript at 7-9. She also heard coworkers play rap music with lyrics that included “foul language” while at work. Transcript at 8. After claimant spoke to her supervisor about those matters, which were offensive to her, her supervisor told her “it was being dealt with.” Transcript at 8. The supervisor spoke to the employees in question and told them to discontinue their conversations about their body parts and the playing rap music that included foul language.

(4) From August 3, 2020 to August 16, 2020, claimant also perceived that coworkers in the internal medicine section acted as though they generally disliked her. Before claimant started her job, claimant’s friend who worked at claimant’s assigned clinic told her that some coworkers planned to be “mean” to claimant to force her to quit. Transcript at 11. Claimant had noticed that when she sought guidance or asked questions of her coworkers, the coworkers generally ignored her. Claimant also brought that matter up with her supervisor. The supervisor concluded that because the internal medicine section was “very busy,” the coworkers failed to help train or assist claimant for that reason. Transcript at 25.

(5) On August 17, 2020, the supervisor transferred claimant to the family medicine section of claimant’s assigned clinic to complete her training. The supervisor assigned an experienced trainer in the family medicine section to train claimant regarding the employer’s routine practices and procedures. The supervisor planned to transfer claimant back to the internal medicine section after her training was finished and claimant no longer needed assistance from any internal medicine employees for training regarding routine procedures.

(6) On August 17 and 18, 2020, claimant worked with the trainer in the family medicine section without incident. On August 19, 2020, claimant noticed that throughout the day the trainer had been making “little comments” to claimant that bothered her, but which she tolerated because the trainer earlier had told her that she had been involved in an argument with someone the night before and “was tired” because she “didn’t get any sleep.” Transcript at 35. When the trainer later asked claimant to perform a medical procedure on a patient, claimant perceived that the trainer was “barking orders” at her in front of the patient, which upset claimant. Transcript at 12. At that point, claimant told the trainer that if she wanted claimant to do something, all she had to do was ask, and that she did not need to “bark orders” at her. Transcript at 12. The trainer immediately began “yelling” at claimant to “shut up” and “get out of her face,” and that she was “done working” with claimant. Transcript at 12. Claimant became upset, went to the supervisor’s office in tears, and reported to her what had just happened. The supervisor told claimant that the trainer’s reported behavior was “not typical of her,” but because claimant was upset, the supervisor allowed her to take the rest of the day off. Transcript at 22. The supervisor believed that the next day, after both parties had calmed down, both claimant and the trainer would be able to work together.

(7) The morning of August 20, 2020, claimant went to the employer’s clinic, told her supervisor she was quitting and turned in her “badge.” Transcript at 20. Claimant chose not to wait to see how her supervisor would respond to the August 19, 2020 incident with the trainer because she was uncomfortable with her coworkers’ behavior, did not feel she was “welcome,” believed it was “never gonna change,” and had concluded that working for the employer “was [not] a good fit.” Transcript at 35.

(8) Prior to quitting, claimant did not contact the employer's human resources office to discuss her difficulties in the work environment or the potential options for resolution. She did not want to complain about her coworkers' behavior because she did not want to get anyone in trouble. Transcript at 16-17.

**CONCLUSIONS AND REASONS:** Claimant voluntarily 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) (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.

Claimant quit work the morning after the August 19, 2020 incident with the trainer because she was uncomfortable with her coworkers' behavior, did not feel she was "welcome" at the clinic where she had been hired, which she believed was "never gonna change," and had concluded that working for the employer "was [not] a good fit" for her. Viewed objectively, claimant was justifiably upset about being ignored by coworkers in the internal medicine section when she sought guidance or asked questions, the offensive behavior of coworkers there in discussing their body parts and playing rap music that included foul language, and about her trainer's explosive reaction to her comment on August 19, 2020. However, claimant had worked for the employer for less than three weeks when she quit, and her supervisor had taken action in response to her earlier complaints against coworkers by speaking to them about changing the behavior claimant had complained about after telling claimant "it was being dealt with." Viewing the record as a whole, claimant failed to show that allowing her supervisor or human resources a reasonable opportunity to address the trainer's behavior toward claimant on August 19, 2020 would have been a futile alternative to abruptly quitting on August 20, 2020. Accordingly, claimant did not meet her burden to show that no reasonable and prudent person in her circumstances would have continued to work for the employer after August 20, 2020.

Claimant voluntarily quit work without good cause, and is disqualified from receiving unemployment insurance benefits effective August 16, 2020, and until she has earned at least four times her weekly benefit amount from work in subject employment.

**DECISION:** Order No. 21-UI-159384 is affirmed.

S. Alba and D. P. Hettle

**DATE of Service:** March 12, 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 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 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)

The Oregon Employment Department is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Language assistance is available to persons with limited English proficiency at no cost.

El Departamento de Empleo de Oregon es un programa que respeta la igualdad de oportunidades. Disponemos de servicios o ayudas auxiliares, formatos alternos y asistencia de idiomas para personas con discapacidades o conocimiento limitado del inglés, a pedido y sin costo.