

**EMPLOYMENT APPEALS BOARD DECISION**  
**2021-EAB-0240**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On December 24, 2020, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause and was disqualified from receiving unemployment insurance benefits effective March 8, 2020 (decision # 145915). On January 13, 2021, decision # 145915 became final without claimant having filed a timely request for hearing. On January 15, 2021, claimant filed a late request for hearing. On March 2, 2021, ALJ Amesbury conducted a hearing, and on March 8, 2021 issued Order No. 21-UI-162236, allowing claimant's late request for hearing and affirming decision # 145915. On March 29, 2021, claimant filed an application for review with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** Claimant did not declare that she provided a copy of her argument to the opposing party or parties as required by OAR 471-041-0080(2)(a) (May 13, 2019). The argument also contained information that was not part of the hearing record, and did not show that factors or circumstances beyond claimant's reasonable control prevented her from offering the information during the hearing as required by OAR 471-041-0090 (May 13, 2019). EAB considered only information received into evidence at the hearing when reaching this decision. *See* ORS 657.275(2).

Based on a *de novo* review of the entire record in this case, and pursuant to ORS 657.275(2), the portion of the order under review allowing claimant's late request for hearing is **adopted**. The remainder of this decision addresses claimant's work separation from the employer.

**FINDINGS OF FACT:** (1) Gary Heuer employed claimant as an administrative assistant from July 12, 2019 until March 10, 2020.

(2) Claimant lived in Portland, Oregon. In 2017, claimant's landlord sold the house claimant was renting and required claimant to move. Claimant moved into a new house, which resulted in her rent increasing from \$575 per month to \$1800 per month. Claimant's monthly utility costs also increased.

(3) In March 2020, claimant learned of an opportunity to live “basically rent free” near her father in Libby, Montana. Transcript at 29. Moving to Montana appealed to claimant because “getting out of Portland” would “eas[e] the financial burden of paying \$1800 a month in rent[.]” Transcript at 32. It also appealed to her because claimant’s father was 86 years old, and claimant “wanted to spend as much time as [she] could with him[.]” Transcript at 31. Claimant’s father lived independently, although he had some memory loss and had recently had a fall.

(4) Claimant decided to move to Montana but wanted to find a job there before leaving work with the employer. Claimant arranged to take a week of vacation from March 9, 2020 through March 13, 2020 to travel to Montana and interview for jobs.

(5) On March 10, 2020, as claimant was preparing to depart for Montana to look for a job, claimant sent a text to the employer requesting an advance on her paycheck to help finance the trip. The employer was aware that claimant was “preparing to potentially move to Montana,” and sent a response text offering to pay claimant her final paycheck that day, and forgive a previous \$300 advance claimant took the month before if claimant quit work that day. Transcript at 24. Claimant agreed and quit work that day. The employer would have allowed claimant to continue working if claimant had wished to do so.

**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) (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.

Per OAR 471-030-0038(5)(g), leaving work with good cause includes, but is not limited to, leaving work due to compelling family reasons. As pertinent here, “compelling family reasons” is defined under OAR 471-030-0038(1)(e)(B) to mean “[t]he illness or disability of a member of the individual’s immediate family necessitates care by another and the individual’s employer does not accommodate the employee’s request for time off.”

Under OAR 471-030-0038(5)(b)(A), leaving suitable work to seek other work is not good cause for voluntarily quitting work. Factors to consider when determining whether work is “suitable” include “the degree of risk involved to the health, safety and morals of the individual, the physical fitness and prior training, experience and prior earnings of the individual, the length of unemployment and prospects for securing local work in the customary occupation of the individual, the distance of the available work from the residence of the individual.” ORS 657.190.

The main reason claimant quit working for the employer was to move to Montana where she could live “basically rent free.” Another reason claimant quit was so that she could live near her elderly father in

Montana. Claimant also left work for the employer to seek other work in Montana. Claimant did not establish that she had good cause to quit based on any of these reasons.

To the extent claimant quit working for the employer to move to Montana in order to benefit from lower housing costs, claimant did not establish good cause to quit. The record shows that in 2017, claimant's rent increased from \$575 to \$1800 per month and her monthly utility costs increased as well. These increased costs placed a financial burden on claimant. However, she did not establish that the increased costs presented her with a situation of such gravity that she had no reasonable alternative but to quit when she did. If the cost of remaining in Portland, Oregon and continuing to work for the employer had created a grave situation, versus moving to Montana and living rent-free but reducing her income to zero by quitting her job, it is unlikely claimant would have continued to live in Portland for several years after her housing costs increased before deciding to quit. While claimant's increased housing costs were significant, claimant failed to establish they were such a burden that no reasonable and prudent person would have continued working for the employer for an additional period of time.

To the extent claimant quit working for the employer to move to Montana so that she could live near her elderly father, claimant did not establish good cause to quit. First, applying OAR 471-030-0038(4), claimant did not show that living some distance away from her father was a situation of such gravity that she had no reasonable alternative but to leave work when she did to move to Montana. Second, while leaving work due to "compelling family reasons" is good cause, the record does not support that claimant's decision to quit work to live near her father constituted a "compelling family reason" as defined by OAR 471-030-0038(1)(e)(B). Applying that provision, claimant's father's health status did not necessitate care by another; although he had some memory loss and had suffered a fall, claimant testified that her father was "pretty independent and able to take care of himself." Transcript at 31. Moreover, there is no indication from the record that claimant ever requested time off or an accommodation from the employer to address her father's needs.

Finally, to the extent claimant left work with the employer to seek other work in Montana, claimant quit work without good cause. Leaving suitable work to seek other work is not good cause for voluntarily quitting work. Applying the factors set forth under ORS 657.190, claimant's work for the employer as an administrative assistant constituted suitable work. The record does not suggest, for example, that working as an administrative assistant posed a risk to claimant's health or safety or that claimant lacked the training to perform the work adequately. Nor does the record show that claimant's work as an administrative assistant was unsuitable in light of her experience and prior earnings, or that claimant's work as an administrative assistant was beyond an acceptable distance from her residence in Portland, Oregon. Accordingly, because claimant's work for the employer as an administrative assistant was suitable work, under OAR 471-030-0038(5)(b)(A), claimant quit without good cause when she left that work to seek other work in Montana.

Claimant quit work without good cause and is disqualified from receiving benefits effective March 8, 2020.

**DECISION:** Order No. 21-UI-162236 is affirmed.

S. Alba and D. P. Hettle.

**DATE of Service: May 3, 2021**

**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.

**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.

**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 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.

**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.