

**EMPLOYMENT APPEALS BOARD DECISION**  
**2021-EAB-0358**

*Reversed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On February 19, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause and was disqualified from receiving unemployment insurance benefits effective January 27, 2021 (decision # 123407). Claimant filed a timely request for hearing. On April 21, 2021, ALJ L. Lee conducted a hearing at which the employer failed to appear, and on April 29, 2021 issued Order No. 21-UI-165877, modifying decision # 123407 and concluding that claimant quit work without good cause and was disqualified from receiving benefits effective January 24, 2021. On May 4, 2021, claimant filed an application for review with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** EAB considered claimant's written argument in reaching this decision.

**FINDINGS OF FACT:** (1) Oregon Health & Sciences University employed claimant as a patient access representative from April 1, 2017 until January 27, 2021.

(2) Claimant was a single parent and had two children, ages 11 and 17, who were attending school during the 2020-2021 academic year. In April 2020, both children's schools had closed due to COVID-19, and the schools did not reopen for any in-person learning until April 2021. Claimant was also teleworking from her home during that time due to COVID-19.

(3) When the 2020-2021 school year began, claimant used all of her paid time off work to have time to help her children with their schoolwork. Claimant began working full time again once she used all of her paid time off, and used any paid time off she accrued immediately after she accrued it to care for her children. Claimant could not afford to take unpaid leave because she was the sole provider for her children.

(4) Claimant's work hours coincided with the school schedule of claimant's children. The employer's scheduling services occurred only during the day shift, Monday through Friday. Claimant tried to assist her children with school during her lunch breaks. Although her children had done well in school prior to

April 2020, her children had difficulties with online learning, and claimant noticed her children's grades gradually decreasing as the school year progressed. Claimant's 17-year-old attended his classes, but was not meeting his class requirements because he needed more "hands on learning" to complete his assignments. Transcript at 9. Claimant attempted to assist her 17-year-old by requesting breaks to leave her home workstation to help him throughout the day. Claimant helped her son by reviewing the videos of the teachers' lectures and explaining the lessons to her son, and by assisting him with completing his assignments on time that were due by the end of each school day. When she assisted her son, claimant would sometimes miss patient calls. As a result, claimant's work performance suffered.

(5) After October 2020, claimant was no longer meeting the daily quota established by the employer for the number of calls she answered and the number of appointments she set for patients. During claimant's January 2021 performance review, the employer told claimant she was not meeting their production expectations.

(6) By January 2021, claimant's 11-year-old was not attending all his online classes. Claimant had to monitor him and assist him to make sure he attended his classes. He was not able to attend all his classes without claimant showing him when and how to access each class throughout the school day, and without claimant resolving occasional computer or internet problems. By January 2021, both of claimant's children were failing their classes and they "were not able to pick it back up" without claimant's help. Transcript at 10. Claimant did not have family members or the resources to hire a tutor to assist her with caring for her children. Claimant believed she had to assist her children full-time with school or they would fail their classes for the year.

(7) On January 27, 2021, claimant quit work to be able to care for her children by assisting them with online school while their schools were closed for in-person learning due to COVID-19.

**CONCLUSIONS AND REASONS:** Claimant quit work with good cause.

ORS 657.176(2)(c) requires a disqualification from unemployment insurance benefits if a claimant voluntarily leaves (quits) work without good cause. *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.

However, during a state of emergency declared by the Governor under ORS 401.165, the Department may waive, otherwise limit, or modify the requirements of OAR 471-030-0038. OAR 471-030-0071 (September 13, 2020). Paragraph (2)(b) of Oregon Employment Department Temporary Rule for Unemployment Insurance Flexibility (March 8, 2020), <https://www.oregon.gov/employ/Documents/Temporary%20Rule-2.pdf> [hereinafter OED Temporary COVID-19 Rule], provides that a person who quits work because of a COVID-19 related situation is not disqualified from receiving unemployment insurance benefits. Under OED Temporary COVID-19 Rule (1), a COVID-19 related situation includes the following:

\* \* \*

(f) A person is unable to work because they have to stay home to care for a child due to the closure of schools, child care providers, or similar facilities due to the novel coronavirus[.]

Order No. 21-UI-165877 concluded that claimant quit work without good cause. Order No. 21-UI-165877 at 3. The order reasoned that claimant's circumstances with her children's education was not a grave situation, that claimant did not have to quit her job to stay at home with her children, and that she was not therefore facing a COVID-19 related situation. Order No. 21-UI-165877 at 3. The record does not support that conclusion.

Claimant quit work because she had to stay home to care for her children due to the closure of their schools. That claimant was able to telework did not obviate the need for her to quit work to care for her children due to the closure of their schools. Claimant tried for months to telework and care for her children at the same time, and the record shows that she was unable to work and successfully care for her children at the same time. This situation falls squarely within the temporary rules set out to address unemployment due to COVID-19. Because claimant quit work because of a COVID-19 related situation, she is not disqualified from receiving unemployment insurance benefits.

For the foregoing reasons, claimant is not disqualified from receiving unemployment insurance benefits due to this work separation.

**DECISION:** Order No. 21-UI-165877 is set aside, as outlined above.

D. Hettle and A. Steger-Bentz;  
S. Alba, not participating.

**DATE of Service: June 10, 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](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.

**NOTE:** This decision reverses an order that denied benefits. Please note that payment of benefits, if any are owed, may take approximately a week for the Department to complete.

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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

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## 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 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)

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