

**EMPLOYMENT APPEALS BOARD DECISION**  
**2021-EAB-0876**

*Reversed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On August 18, 2021, 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 June 20, 2021 (decision # 70453). Claimant filed a timely request for hearing. On September 20, 2021, ALJ Micheletti conducted a hearing, and on September 23, 2021 issued Order No. No. 21-UI-175450, affirming decision # 70453. On October 4, 2021, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Providence Health employed claimant as a certified medical assistant from March 9, 2015 until June 24, 2021. Claimant initially worked for the employer in their family practice department, and transferred to their neurology department in March 2020.

(2) Claimant suffered from hypertension, and kidney and urinary issues. In 2019, claimant was diagnosed with anxiety.

(3) On January 19, 2021, the employer placed claimant on a performance improvement plan. The plan addressed concerns about several aspects of claimant's work performance. On April 29, 2021, claimant's supervisor met with claimant to advise her that because she had not sufficiently improved in several areas, she would be placed on a "verbal corrective action" two weeks later, which would bar claimant from transferring to other positions within the organization. Transcript at 31. On May 13, 2021, the employer placed claimant on a verbal corrective action.

(4) As a result of the employer's repeated criticism of her work performance, claimant experienced anxiety that led to the exacerbation of her hypertension, and recurring bladder infections.

(5) On June 24, 2021, claimant's supervisor met with claimant to advise her that because she had not sufficiently improved after being placed on the verbal corrective action, she was being issued a written warning. Claimant became upset due to the employer's having criticized her work performance, and as a

result of the stress caused by the negative performance evaluations and the effects they had on her health, claimant voluntarily quit. Claimant did not seek a leave of absence to address her medical concerns prior to quitting. Had she done so, the employer would have granted claimant a leave of absence.

**CONCLUSIONS AND REASONS:** Claimant voluntarily quit work with 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). Claimant had anxiety, hypertension, and chronic urinary-tract issues, permanent or long-term “physical or mental impairments” as defined at 29 CFR §1630.2(h). A claimant with such impairments who quits work must show that no reasonable and prudent person with the characteristics and qualities of an individual with such impairments would have continued to work for their employer for an additional period of time.

Claimant voluntarily quit work because of stress caused by negative performance evaluations at work, and the exacerbation of mental and physical health conditions that resulted from that stress. The order under review concluded that claimant quit because of her belief that she was being “unfairly singled-out for disciplinary action related to her work performance,” which was not a grave reason for quitting. Order No. 21-UI-175450 at 2–3. However, although the record shows that claimant was frustrated with the disciplinary actions that the employer had taken, she testified that she quit because of the stress she had been experiencing at work in connection with those disciplinary actions. Transcript at 6. Further, the record shows that the work-related stress caused an exacerbation of claimant’s medical conditions. In sum, rather than quitting due to mere frustration, claimant quit because the stress of the performance evaluations put claimant’s health at risk. A reasonable and prudent person, suffering from the health conditions that claimant had, would have left work under such circumstances if there was no reasonable alternative.

The order under review concluded that, to the extent that claimant could have sought alternatives to quitting such as taking a medical leave of absence to recover her health, or filing formal complaints against her supervisors in regards to the disciplinary actions taken against her. Order No. 21-UI-175450 at 2–3. The record does not support those conclusions. At hearing, claimant admitted that she had felt that she lacked sufficient training and experience to work in the neurology department; and that the lack of experience caused, for instance, some of the medical providers in the neurology department to refuse to allow her to assist them. Transcript at 39, 41. Claimant also did not generally refute the employer’s various assertions regarding her performance issues. When viewed as a whole, it is reasonable to conclude that claimant’s performance issues were at least partially the result of her general inexperience with the neurology department. Because the stress and resulting medical issues were caused by the disciplinary process that was itself caused by claimant’s lack of experience, taking a leave of absence was unlikely to have resolved the situation.

Likewise, while filing complaints against her supervisors might have yielded favorable results if the disciplinary processes were based on false or inaccurate appraisals of claimant's performance, the record does not show that claimant's performance was inaccurately appraised. Such complaints therefore were unlikely to have resolved the situation. The record therefore establishes that claimant quit work for a reason of such gravity that she had no reasonable alternative but to quit.

For the above reasons, claimant quit working for the employer with good cause, and is not disqualified from receiving unemployment insurance benefits based on the work separation.

**DECISION:** Order No. 21-UI-175450 is set aside, as outlined above.

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

**DATE of Service: November 9, 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 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

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 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**  
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