

**EMPLOYMENT APPEALS BOARD DECISION**  
**2021-EAB-0962**

*Reversed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On August 25, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit work without good cause and was disqualified from receiving unemployment insurance benefits effective July 4, 2021 (decision # 112954). Claimant filed a timely request for hearing. On October 28, 2021, ALJ Snyder conducted a hearing at which the employer failed to appear, and on November 5, 2021 issued Order No. 21-UI-179174, affirming decision # 112954. On November 10, 2021, claimant filed an application for review with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** EAB did not consider claimant's written argument when reaching this decision because she did not include a statement declaring 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).

**FINDINGS OF FACT:** (1) Connect Wireless employed claimant, last as a store manager, from April 1, 2019 to July 4, 2021.

(2) In February 2020, after claimant's sister attempted suicide, claimant requested a one-week leave of absence from the employer's area manager because she was not "mentally ready to be [at work]." Audio Record at 18:03. The area manager told claimant he could not approve her leave request due to short staffing. Claimant decided to remain with the company and continued to work "bell to bell" due to the short staffing. Audio Record at 17:50.

(3) In June 2021, the area manager promoted claimant to manager, due, in part, to the lack of a manager from the short staffing. Claimant had been "working every day for a couple of months straight" due to the lack of staff, and her responsibilities included training two new hires who would both call her frequently to seek guidance even when she was off duty or on her lunch break. Audio Record at 10:11. Claimant had also learned that her grandmother in Mexico had become seriously ill and claimant arranged to have the grandmother come stay with her at claimant's home. Claimant's grandmother's condition would require claimant to assist the grandmother with moving around her house and there was no one else available to assist with her grandmother's care. Claimant felt there was "a lot of stuff on her

plate” between the responsibilities of her new employment role and her grandmother’s illness and that she “just couldn’t do it anymore.” Audio Record at 10:29 to 10:43.

(4) On July 4, 2021, claimant texted the area manager that she had decided to quit due to her grandmother’s illness. The area manager responded by offering claimant a one-month leave of absence, but claimant declined because any leave of absence would be unpaid and, because the two new hires remained insufficiently trained, claimant believed they would continue to make contact with her at home during any leave of absence. Claimant also believed, based on the area manager’s lack of support following her sister’s suicide attempt, that the area manager would ultimately not be supportive of the ongoing situation with her grandmother.

(5) On July 12, 2021, claimant began a job with a new employer. Claimant took the job because she could not afford to be unemployed because she had bills to pay and she thought a new job would be an “alternative route” for her to work in a less stressful position, while being able to care for her grandmother and meet her financial obligations. Audio Record at 15:13. Claimant only worked at the new job for a short period of time because she was distracted by her concern over her grandmother’s illness.

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

The order under review concluded that although claimant faced a grave situation from the combination of her work-related stress and her need to care for her ailing grandmother, she had failed to show that she had good cause to leave work because she did not show that she had pursued reasonable alternatives prior to quitting. Order No. 21-UI-179174 at 3. The order under review reasoned that prior to any decision to quit; claimant had the reasonable alternatives of speaking with the area manager about her work-related stress and the potential for a job transfer and/or accepting the area manager’s offer of a one-month leave of absence. Order No. 21-UI-179174 at 3. However, while the order under review correctly reasoned that the combination of claimant’s work-related stress and her grandmother’s illness created a grave circumstance, the record does not support the order under review’s conclusion that claimant did not have good cause to quit work.

The record shows that claimant faced a grave situation with the employer due to the combination of the increasing work-related stress she was experiencing and her responsibilities with respect to caring for her grandmother. Regarding claimant’s work-related stress, the record shows that claimant was confronted with a stressful work environment that included being required to work for at least two months straight, without a day off, and where she would continue to receive work-related phone calls

even when at home or while on break. As for the situation with claimant's grandmother, the record shows that claimant was the only available caretaker for her grandmother, and that her grandmother's illness was serious and required her to travel from Mexico to claimant's home for care. Furthermore, the record establishes that claimant's concern at the time for her grandmother's ill health had an adverse effect on claimant's ability to properly function in a work environment as evidenced by her decision to quit her new job shortly after she started due to an inability to keep her focus on work and away from her grandmother. Under the totality of these circumstances, and as the order under review correctly determined, no reasonable and prudent person of normal sensitivity in claimant's position would have continued to work for the employer for an additional period of time.

The record also shows that claimant had no reasonable alternatives to quitting. On July 4, 2021 claimant communicated with the area manager about the stressful situation involving her grandmother's health and her conclusion that she needed to quit. In response, the area manager offered claimant the alternative of a one-month leave of absence. However, the record shows that any leave of absence would have been unpaid and was therefore unreasonable as an alternative because it would not have allowed claimant to meet her financial obligations, nor would it necessarily have resolved the grave situation she was facing due to her grandmother's illness. *See Sothras v. Employment Division*, 48 Or App 69, 77, 616 P2d 524 (1980) ("[A] protracted, unpaid leave of absence is not a 'reasonable alternative' to leaving work and being unemployed; indeed it is not an alternative at all"). Likewise, the record shows that, more likely than not, any leave claimant might have taken would have still required her to be responsive to the frequent work-related phone calls she had become accustomed to receiving even when she was not on shift. Finally, the record fails to show that a job transfer was a viable alternative for claimant given that the employer was so perpetually short-staffed that their staffing issues contributed to their decision to elevate claimant to a store manager in the first place. Likewise, the fact that the record shows that the area manager did not broach the subject of a job transfer with claimant during their July 4, 2021 text conversation suggests, more likely than not, that a job transfer was not a viable alternative for claimant.

For these reasons, claimant quit work with good cause and is not disqualified from receiving benefits based on the work separation.

**DECISION:** Order No. 21-UI-179174 is set aside, as outlined above.

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

**DATE of Service:** December 17, 2021

**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.

**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.

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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 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  
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