

**EMPLOYMENT APPEALS BOARD DECISION**  
**2021-EAB-1067**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On June 18, 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 February 28, 2021 (decision # 104732). Claimant filed a timely request for hearing. On September 15, 2021, ALJ Amesbury conducted a hearing, and on September 16, 2021 issued Order No. 21-UI-174899, affirming decision # 140732. On September 28, 2021, claimant filed an application for review with the Employment Appeals Board (EAB).

On November 4, 2021, EAB issued Appeals Board Decision 2021-EAB-0783 remanding this case for further development of the record to determine whether claimant quit work with good cause. On November 30, 2021, ALJ Amesbury conducted a hearing on remand, at which the employer failed to appear, and issued Order No. 21-UI-180761, affirming decision # 140732. On December 14, 2021, claimant filed an application for review of Order No. 21-UI-180761 with EAB.

**FINDINGS OF FACT:** (1) Jay Coil Fabricating LLC employed claimant as a welder from February 2001 until March 4, 2021.

(2) During the course of his employment, claimant and the employer's owner developed a tense working relationship. Claimant increasingly resented the owner's "micromanagement" of his work, and the two frequently argued about work matters. September 15, 2021 Transcript at 7-8. Claimant did not believe that he and the owner communicated with each other very well.

(3) On March 4, 2021, the owner approached claimant and spoke to him about how to perform a work task. Claimant did not believe that he needed any help or advice from the owner about how to perform the task and the two of them began to argue. The owner did not use foul or abusive language but told claimant that if he was not happy working for the employer, the owner could "lay [claimant] off" so he "can find something else to do." September 15, 2021 Transcript at 8. Claimant responded to the owner that he "was fine with it, whatever. I'm - I'm done." September 15, 2021 Transcript at 9. Claimant worked another hour until the end of his shift and left. Claimant understood that by agreeing to be "laid

off,” “[i]t was pretty much understood that [claimant] probably wouldn’t be coming back, and that [he] was gonna find another job.” September 15, 2021 Transcript at 6.

(4) Claimant did not return to work for the employer. Claimant believed that he and the owner had “agree[d]” that he would be laid off that day, but understood that if he did not want to be laid off, he could instead decide to continue his employment. September 15, 2021 Transcript at 23-24.

(5) On March 4, 2021, claimant quit work because he was dissatisfied with the owner’s “micromanagement” of his work. November 30, 2021 Audio Record at 17:25 to 17:40.

**CONCLUSIONS AND REASONS:** Claimant voluntarily quit work without good cause.

**Nature of the Work Separation.** If the employee could have continued to work for the same employer for an additional period of time, the work separation is a voluntary leaving. OAR 471-030-0038(2)(a) (September 22, 2020). If the employee is willing to continue to work for the same employer for an additional period of time but is not allowed to do so by the employer, the separation is a discharge. OAR 471-030-0038(2)(b). “Work” means “the continuing relationship between an employer and an employee.” OAR 471-030-0038(1)(a).

Although the parties at hearing characterized the nature of claimant’s work separation as a layoff, the preponderance of the evidence shows that claimant voluntarily quit work at the end of his shift on March 4, 2021. September 15, 2021 Transcript at 5, 16. Continuing work was available following the end of claimant’s shift on March 4, 2021 and the record shows that claimant understood that if he did not want to be laid off, he could have continued his employment. September 15, 2021 Transcript at 23-24. Although claimant also testified that after his conversation with the owner on March 4, 2021, he “did not believe there was a job available any longer,” claimant’s testimony on that issue was internally inconsistent with his testimony on September 15, 2021 when he testified that he could have decided to continue his employment after March 4, 2021. November 30, 2021 Audio Record at 12:10 to 13:15. Moreover, the record shows that claimant understood that if he agreed to the employer’s layoff proposal, it would end the employment relationship because “[i]t was pretty much understood that [claimant] probably wouldn’t be coming back, and that [he] was gonna find another job.” September 15, 2021 Transcript at 6. Therefore, more likely than not, claimant could have decided not to end his employment on March 4, 2021 and continued to work for the employer for an additional period of time, but was unwilling to do so. Accordingly, the work separation was a voluntary leaving that occurred on March 4, 2021.

**Voluntary Leaving.** 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). “[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.

Although Order No. 21-UI-180761 explained that claimant did not quit for a compelling family reason under OAR 471-030-0038(5)(g) or because of his long-standing back pain, the order did not address the reason that claimant gave at the remand hearing on November 30, 2021 for quitting work. Order No. 21-UI-180761 at 3-4. At that hearing, claimant clarified that he stopped working on March 4, 2021 because he was dissatisfied with the owner's "micromanagement" of his work and not because he needed to care for an ill or disabled family member or because of his back pain. November 30, 2021 Audio Record at 13:15 to 17:40.

To the extent claimant quit work due to the owner's "micromanagement" style, claimant quit work without good cause. Viewed objectively, claimant's dissatisfaction with the owner's micromanagement of his work did not create a situation of such gravity that he had no reasonable alternative but to quit. Although claimant testified that the owner was "hotheaded," he did not assert or show that the owner used foul or abusive language when the owner spoke to claimant about how to complete work tasks. September 15, 2021 Transcript at 7-8. On those occasions, claimant could have requested that the owner allow claimant to complete the work task on his own based on his extensive experience, and told the owner that if claimant encountered any problems with the task that he would come to owner for advice and assistance. Alternately, claimant could have listened to the owner's directions and understood that as the owner, the owner was entitled to give claimant direction in how he performed his work. The record fails to show that pursuing these reasonable alternatives to quitting would have been unsuccessful or futile.

For these reasons, claimant quit work without good cause and is disqualified from receiving unemployment insurance benefits effective February 28, 2021.

**DECISION:** Order No. 21-UI-180761 is affirmed.

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

**DATE of Service:** January 24, 2022

**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 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 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**  
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