

**EMPLOYMENT APPEALS BOARD DECISION**  
**2022-EAB-0324**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On January 31, 2022, 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 January 2, 2022 (decision # 113222). Claimant filed a timely request for hearing. On February 28, 2022, ALJ Kaneshiro conducted a hearing, and on March 1, 2022 issued Order No. 22-UI-187495, affirming decision # 113222. On March 9, 2022, claimant filed an application for review with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** Claimant's argument 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. Under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB considered only information received into evidence at the hearing when reaching this decision. EAB considered claimant's argument to the extent it was based on the record.

**FINDINGS OF FACT:** (1) Work Health Solutions employed claimant as a medical assistant and COVID-19 screener from November 29, 2021 until January 6, 2022.

(2) Claimant had long-term depression and anxiety. The conditions were first diagnosed on or about 2007 and claimant received ongoing care and treatment for them.

(3) On December 17, 2021, the employer issued claimant a warning for violating their time keeping procedure. When claimant received the warning, she felt that her manager "scolded" her in a manner she perceived as rude and hostile. Transcript at 11.

(4) Claimant's main duty for the employer was to screen employees of a client location site for COVID-19, which required claimant to wear personal protective equipment (PPE) while conducting screenings. The PPE claimant had to wear included a medical gown, which claimant was required to change between each employee that she screened. Claimant found it inconvenient to change the gown between screenings and failed to wear the gown as required on multiple occasions.

(5) Claimant's manager learned that claimant had failed to wear the gown as required and, on January 6, 2022, met with claimant about the matter. Claimant perceived the manager's behavior during the meeting as rude and hostile. When the manager met with claimant, she allowed the door to slam behind her in a manner that upset claimant. The manager also mentioned during the meeting that claimant was not vaccinated against COVID-19 and that claimant "need[ed] to keep [her]self safe." Transcript at 9. Claimant felt that this comment was delivered in a "scolding" tone, rather than one of concern. Transcript at 9.

(6) The meeting with the manager upset claimant, and shortly after her shifted ended on January 6, 2022, claimant sent an email to the employer advising that she was resigning effective immediately. Claimant resigned because she felt her manager had been unprofessional and hostile towards her during the meetings on December 17, 2021 and January 6, 2022.

(7) Prior to resigning, claimant did not raise any concerns with the employer about her manager's behavior. Had claimant complained about the manager's behavior, and had the employer substantiated any such complaints, it would have been possible for claimant to work under a different manager.

**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). Claimant had depression and anxiety, a permanent or long-term "physical or mental impairment" as defined at 29 CFR §1630.2(h). A claimant with an impairment who quits work must show that no reasonable and prudent person with the characteristics and qualities of an individual with such an impairment would have continued to work for their employer for an additional period of time.

Claimant did not meet her burden to show that she quit work with good cause. Although claimant's interactions with her manager were upsetting to her, the manager's behavior did not present claimant with a situation of such gravity that claimant had no reasonable alternative but to leave work when she did. The record does not show that the manager's conduct subjected claimant to abuse, oppression, name-calling, foul language, or threats of physical harm that would have rendered claimant's situation grave. It was not unreasonable for the manager to express her concern that claimant was unvaccinated against COVID-19, given that she was failing to properly wear PPE and may have been at heightened risk of infection because of the nature of her job as a COVID-19 screener. The manager's tone during the meetings and the fact that she allowed the door to slam behind her on January 6, 2022 may have been curt, but were not such that no reasonable and prudent person with depression and anxiety would have continued to work for their employer for an additional period of time.

The record also shows that claimant failed to pursue reasonable alternatives prior to quitting. The record evidence demonstrates that, prior to resigning, claimant did not raise any concerns with the employer about her manager's behavior. The record also indicates that, had claimant complained about the

manager's behavior, and had the employer substantiated any such complaints, it would have been possible for claimant to work under a different manager. Claimant therefore failed to establish that she had no reasonable alternative but to quit.

For these reasons, claimant quit work without good cause and is disqualified from receiving unemployment insurance effective January 2, 2022.

**DECISION:** Order No. 22-UI-187495 is affirmed.

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

**DATE of Service:** May 13, 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](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.

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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**

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**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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