

**EMPLOYMENT APPEALS BOARD DECISION**  
**2022-EAB-0400**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On January 28, 2022, 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 January 23, 2022 (decision # 134215). Claimant filed a timely request for hearing. On March 8, 2022, ALJ Wardlow conducted a hearing, and on March 9, 2022 issued Order No. 22-UI-188249, affirming decision # 134215. On March 22, 2022, claimant filed an application for review with the Employment Appeals Board (EAB).

**EVIDENTIARY MATTER:** EAB has taken notice of additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence consists of the February 25, 2022 notice of hearing, and has been marked as EAB Exhibit 1, and a copy provided to the parties with this decision. Any party that objects to our admitting EAB Exhibit 1 must submit such objection to this office in writing, setting forth the basis of the objection in writing, within ten days of our mailing this decision. OAR 471-041-0090(2). Unless such objection is received and sustained, the exhibit(s) will remain in the record.

**WRITTEN ARGUMENT:** Claimant did not declare 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). Notwithstanding claimant's failure to provide a copy of her argument to the opposing party, claimant's written argument consists of the following statement:

During the hearing I dropped my call and I was having technical difficulties in my end. I didn't try calling back because I was hesitant and I was scared and intimidated by my previous employeer [sic].

Claimant's Written Argument at 1. The record shows that claimant briefly appeared at the hearing, but dropped off the call before offering any testimony. Audio Record at 4:55 to 5:30. Aside from the brief explanation in her written argument, claimant did not otherwise explain why she was unable to rejoin

the hearing and offer testimony. Further, even if claimant was experiencing “technical difficulties” with her phone, the notice of hearing mailed to the parties on February 25, 2022 stated, in relevant part that if “you are having difficulty calling in for the hearing, hang up and call [the provided number].” EAB Exhibit 1 at 1. To the extent that claimant intended the statement in her written argument to be a request to consider additional information, claimant did not show that factors or circumstances beyond claimant’s reasonable control prevented her from offering the information during the hearing as required by OAR 471-041-0090 (May 13, 2019). EAB considered only information received into evidence at the hearing when reaching this decision. *See* ORS 657.275(2).

**FINDINGS OF FACT:** (1) Umpqua Bank employed claimant as a customer service associate from November 29, 2021 until January 25, 2022. Claimant’s duties consisted of interacting with bank customers over the phone.

(2) Starting around mid-December 2021, claimant’s manager had several conversations with claimant about the need to improve her customer interactions.

(3) On January 25, 2022, claimant’s manager met with claimant and issued a written warning regarding her work performance. The manager did not intend to discharge claimant at that point, intended to help claimant improve her performance, and specifically advised claimant of that fact. Nevertheless, claimant informed the manager that she felt that she was not a good fit for the job because calls with customers were “very stressful” and she felt unable to handle the interactions. Audio Record at 17:07. Claimant did not inform her manager about any particular customer interaction that had occurred that day. During the course of her employment, claimant did not advise her manager that she had any medical issues that contributed to her difficulty at work.

**CONCLUSIONS AND REASONS:** Claimant voluntarily quit 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). 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. Per OAR 471-030-0038(5)(b)(A), leaving work without good cause includes leaving suitable work to seek other work.

Claimant voluntarily quit work during a meeting with her manager in which the manager issued claimant a written warning due to her work performance. Claimant’s apparent motive for quitting was her feeling that the position was “very stressful” and that she was a poor fit for it. Because claimant did not testify at the hearing or otherwise offer evidence to further explain her reasoning for quitting, the record does not show that claimant suffered from any conditions<sup>1</sup> that might have made it more difficult

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<sup>1</sup> For an individual with a permanent or long-term “physical or mental impairment” (as defined at 29 CFR §1630.2(h)) good cause for voluntarily leaving work is such that a reasonable and prudent person with the characteristics and qualities of such individual, would leave work. OAR 471-030-0038(4).

than usual to deal with the stress of customer interactions. Therefore, in order to determine that claimant voluntarily quit with good cause, claimant must prove, by a preponderance of the evidence, that a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would have left work under the circumstances that claimant faced. Claimant has not met her burden.

While the stress of interacting with members of the public may be frustrating, it does not, by itself, amount to a situation of such gravity that an individual would have no reasonable alternative but to leave work. Even if claimant found the stress unbearable, the record shows that her manager was willing to work with her to improve her interactions with customers. Given this fact, and the fact that claimant worked for the employer for less than two months, it is reasonable to conclude that had claimant not quit, but instead worked with her manager to improve her customer interactions, she might have found the situation more bearable. Because she did not do so, claimant did not exercise a reasonable alternative to quitting, and therefore quit without good cause.

Finally, while the record does not explicitly show that claimant quit in order to seek other work, it is reasonable to conclude that, more likely than not, claimant intended to seek other work when she quit working for the employer. Under OAR 471-030-0038(5)(b)(A), leaving work without good cause includes leaving suitable work to seek other work. Factors to consider when determining whether work was suitable for an individual include the degree of risk involved to the health, safety and morals of the individual, the physical fitness and prior training, experience and prior earnings of the individual, the length of unemployment and prospects for securing local work in the customary occupation of the individual and the distance of the available work from the residence of the individual. ORS 657.190. Here, claimant has not shown by a preponderance of the evidence that the factors described in ORS 657.190, or any similar factors, rendered her position with the employer unsuitable. Therefore, to the extent that claimant quit work in order to seek other work, she did so without good cause.

For the above reasons, claimant voluntarily quit work without good cause, and is disqualified from receiving benefits effective January 23, 2022.

**DECISION:** Order No. 22-UI-188249 is affirmed.

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

**DATE of Service:** June 3, 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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You can access the survey using a computer, tablet, or smartphone. If you are unable to complete the survey online and need a paper copy of the survey, please contact our office.



# 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 ໄດ້ໂດຍປະຕິບັດຕາມຄໍາແນະນໍາທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄໍາຕັດສິນນີ້.

**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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