

**EMPLOYMENT APPEALS BOARD DECISION**  
**2022-EAB-0403**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On December 30, 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 December 12, 2021 (decision # 71922). Claimant filed a timely request for hearing. On March 17, 2022, ALJ Kaneshiro conducted a hearing, and on March 18, 2022 issued Order No. 22-UI-189112, affirming decision # 71922. On March 24, 2022, claimant filed an application for review with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** EAB considered claimant's written argument when reaching this decision.

**FINDINGS OF FACT:** (1) Work Unlimited Inc. employed claimant as a lead job developer from early June 2021 through December 15, 2021.

(2) The employer employed an individual to clean bathrooms, but such cleaning only occurred in the morning. As a result, the employer expected their employees to "clean up messes [when they] see it" at other times during the day so that their workplace could remain clean. Transcript at 17. The employer provided gloves and other sanitation equipment to their employees for cleaning purposes. The employer also provided annual biohazard training to address cleaning situations that might involve blood-borne pathogens or other biohazardous situations. Claimant participated in the biohazard training in June 2021, although she was not advised where the gloves or cleaning equipment would be located.

(3) Claimant generally accepted that her job required her to perform a certain level of cleaning. For example, when claimant found boxes stacked to the ceiling in her office, she cleaned those boxes out herself. Claimant had also observed during the course of her employment "a lot of urine on and around toilets . . . and . . . [she] dealt with [it]." Exhibit 1 at 4.

(4) In November 2021, claimant met with the employer's director of supported employment (DSE) and the employer's director of human resources (HR) to address several concerns claimant had about her

employment situation. After the discussion, claimant expressed to the director of HR that her concerns had been resolved.

(5) On December 10, 2021, the employer conducted a staff meeting with employees including claimant, where the employees were reminded that they were all expected to “pitch in together and help clean up” when they see a mess. Transcript at 17. Claimant acknowledged this expectation and told the employer she was “okay” with it. Transcript at 23. Claimant subsequently discovered feces on a toilet seat when she went to use the restroom. Claimant exited the restroom, alerted nearby coworkers of her discovery, and told them that she did not know what the protocol was for cleaning this type of mess. One of the coworkers told claimant they would take care of the feces mess and they did so. Claimant did not otherwise believe it was in her job description to clean the feces.

(6) Later that day, claimant met with her supervisor over unrelated matters. At the end of their conversation, claimant’s supervisor told claimant that he had been alerted to the earlier feces matter claimant had experienced and that, going forward, “if you find it, you clean it up.” Transcript at 9. Claimant acknowledged the instruction, but explained that she did not know where to find gloves and did not know the cleanup procedure. The supervisor told claimant that he would show her where to find the gloves and the cleanup procedure. The employer’s expectation that claimant would clean up feces under these circumstances “made [claimant’s] head spin.” Transcript at 11. That evening claimant emailed the employer that she would not clean up feces or urine if she found it on toilets because she viewed it as unreasonable and as potentially exposing her to a biohazard.

(7) On December 13, 2021, the employer responded to claimant they viewed cleaning up messes as the responsibility of all employees and part of the “other duties as assigned” provision of her job description. Exhibit 1 at 4. The employer thanked claimant for her efforts in keeping the workplace clean to date and for “starting a conversation on how to ensure we are better in maintaining cleanliness in this area.” Exhibit 1 at 4.

(8) On December 15, 2021, claimant emailed the employer and informed them she was resigning, effectively immediately. Prior to resigning, claimant did not speak with the employer further, nor avail herself of her ability to appeal any decisions she disagreed with to the employer’s CEO.

**CONCLUSIONS AND REASONS:** Claimant 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.

Claimant quit work because she believed that it was both unreasonable, and a potential hazard to her health, for the employer to expect that upon the discovery of feces in the workplace she should clean it

up. Furthermore, claimant believed that this specific type of cleaning was not in her job description. However, the record shows that the incident that led to her decision to quit was claimant's December 10, 2021 discovery of feces in the employer's restroom; a mess, which at the time of her discovery, claimant neither refused to clean up nor actually cleaned up. Instead, a coworker cleaned up the mess in response to claimant's question regarding the proper protocol, and claimant only later came to understand that, *going forward*, she would be expected to clean up a feces mess as part of her job duties. Under these circumstances, claimant did not face a grave situation at work at the time of her December 10, 2021 discovery of feces and/or the employer's subsequent clarification to her that she would be expected to clean up feces in this type of circumstance going forward. By quitting work under circumstances that were not grave, claimant failed to act as a reasonable and prudent person would have acted under the same or similar circumstances.

Furthermore, even if the record had shown that claimant faced a grave situation resulting from her December 10, 2021 discovery of the feces, and her ultimate recognition that she would be expected to clean up such messes going forward, claimant still had reasonable alternatives available to her rather than quitting. First, the record shows that claimant could have raised her concerns with the employer's HR department and/or the DSE to seek a resolution or compromise on the cleaning issue. Claimant took this approach in November 2021 with other, unrelated concerns about her employment and it resulted in a meeting with the employer where her concerns were apparently resolved to her satisfaction. Moreover, the record shows that the employer expressed to claimant shortly before she quit that they appreciated that she had "start[ed] a conversation on how to ensure we are better in maintaining cleanliness in this area," which suggests that the employer was open to further discussion on the issue. Exhibit 1 at 4. Finally, even if claimant had engaged in such an additional dialogue with HR and/or the DSE, and even if this dialogue had not resolved her concerns, the record shows that claimant could have appealed any adverse decision related to this cleaning issue to the employer's CEO as an alternative to quitting. As such, the record shows that claimant had reasonable alternatives available to her other than quitting and therefore claimant has failed to show that she quit work with good cause.

For these reasons, claimant voluntarily quit work without good cause, and is disqualified from receiving unemployment insurance benefits effective December 12, 2021.

**DECISION:** Order No. 22-UI-189112 is affirmed.

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

**DATE of Service:** June 9, 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 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 الإستئناف 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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