

**EMPLOYMENT APPEALS BOARD DECISION**  
**2022-EAB-0576**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On January 19, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit work with good cause and therefore was not disqualified from receiving unemployment insurance benefits based on the work separation (decision # 154742). The employer filed a timely request for hearing. On May 11, 2022, ALJ Amesbury conducted a hearing, and on May 12, 2022 issued Order No. 22-UI-193538, reversing decision # 154742 by concluding that claimant voluntarily quit work without good cause and therefore was disqualified from receiving unemployment insurance benefits effective December 20, 2020. On May 16, 2022, claimant filed an application for review with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** Claimant did not declare that he provided a copy of his argument to the opposing party as required by OAR 471-041-0080(2)(a) (May 13, 2019). The argument also contained information that was not part of the hearing record, and did not show that factors or circumstances beyond claimant's reasonable control prevented him 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) Garmin AT Inc. employed claimant as a machine operator from April 6, 2015 until December 22, 2020.

(2) During the course of his employment, claimant had poor working relationships with some of his coworkers, which in some cases led him to file complaints against certain coworkers. When claimant made these complaints, the employer investigated them, and took actions as necessary. These actions included, in some cases, disciplining the coworker involved in the conflict, requiring them to undergo training, and rearranging duties to minimize claimant's further contact with the coworker. Additionally, the employer accommodated other requests that claimant made, such as changing claimant's schedule and assigning him to different teams. Claimant made those requests through his supervisor in some instances, and through the employer's human resources (HR) department in others.

(3) In December 2020, claimant requested that the employer reassign him to a different position within the company. The reassignment was a demotion, and resulted in a pay cut. Nevertheless, claimant preferred the position both because he had “a lot of stress” as a result of an ongoing conflict with a coworker (CK) who was “bullying” him and “yelling at [him] all the time,” and because the other position had working hours that were more favorable to claimant. Transcript at 14. The employer granted claimant’s request, and claimant was scheduled to start the new position on January 4, 2021.

(4) On December 21, 2020, claimant and CK were both assigned to work at different workstations on the same machine. During their shift, CK “kicked [claimant] out [of] the machine” and would not let claimant return to continue working on the machine. Transcript at 6. As he was unable to continue working on the machine to which he had been assigned, claimant assisted another coworker for the rest of the shift.

(5) On December 22, 2020, claimant was working on his machine when he was called away by an alarm that alerted him to an issue with the production process. While claimant was away from his workstation, CK took claimant’s place and began performing claimant’s work. CK refused to allow claimant to resume his own work when claimant returned to the workstation. Claimant then went to speak with his supervisor and, since he only had three working days left<sup>1</sup> until he was transferred to the new position, requested that he be permitted to take those three days off from work. Claimant’s request was motivated by the conflict with CK, and claimant’s resulting belief that he would have nothing to do for the remaining three days because CK would not allow claimant to perform his work. The supervisor told claimant that claimant did not have sufficient paid time off (PTO) to cover the proposed absences, and that claimant would therefore be in violation of the attendance policy if he took those three days off.

(6) Claimant became upset at the supervisor’s response, threw his employee badge onto the supervisor’s desk, and told the supervisor that he was quitting. Claimant quit because the supervisor did not allow him to take off the three days as claimant had requested, and because he “couldn’t handle anymore” conflict with CK. Transcript at 10. Prior to quitting, claimant did not speak to his supervisor or the employer’s HR department about the conflict with CK. Had he done so, the employer would have investigated the matter and taken action if they deemed it appropriate.

**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.

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<sup>1</sup> The record suggests that the employer was closed from Christmas until New Year’s.

Claimant voluntarily quit work following a meeting during which his supervisor refused to allow him to take off three days of work that would not be covered by PTO (without incurring an attendance violation). At hearing, claimant explained that his decision to quit was the result of both the supervisor's refusal to allow claimant the time off and the ongoing conflict with CK that he "couldn't handle anymore." Transcript at 10. The record suggests that claimant would not have quit when he did if the supervisor had allowed him to take the time off as claimant requested. However, that request was the direct result of the conflict with CK. Had the conflict with CK not occurred, the record shows that, more likely than not, claimant would have been willing to work the remaining three days prior to being transferred to the other position. Therefore, while the actual cause of claimant's decision to quit was the supervisor's refusal to allow claimant to take off the remaining three days of work, the proximate cause was claimant's conflict with CK.

Claimant has not met his burden to show that either of the two above reasons for quitting constituted reasons of such gravity that he had no reasonable alternative but to quit work when he did. To the extent that claimant quit due to the time-off request refusal itself, claimant did not quit for a grave reason. Aside from not wishing to continue working with CK, claimant's apparent reason for requesting the three days off was his concern that he would not have any other work to do during those shifts if CK again barred claimant from his own workstation. Even if claimant's concerns about working those shifts were accurate, however, claimant has not shown that being barred from his workstation, and subsequently having nothing to do during the shifts, would have resulted in anything other than temporary inconvenience or annoyance that would end after three days. Thus, claimant has not shown that a reasonable and prudent person would have left work because their request not to work those shifts was refused.

To the extent that claimant voluntarily quit due to the conflict with CK, he also has not shown that this constituted a grave reason for quitting. Claimant's frustration with the situation was understandable. However, while frustrating, the record does not show that claimant faced any danger, or potentially irreparable harm, from tolerating the conflict with CK for three more days before transferring to the new position. Further, claimant had the reasonable alternative of either speaking to his supervisor or HR about the conflict with CK. The record shows that doing so would, more likely than not, have resulted in a resolution to the conflict, as claimant had successfully sought such interventions in the past. When faced with an unpleasant but otherwise unthreatening workplace conflict such as the one that claimant faced, particularly when that conflict had a guaranteed end date in the near future, a reasonable and prudent person would not have left work. Thus, claimant has not shown that the conflict with CK constituted a circumstance of such gravity that he had no reasonable alternative but to quit work.

For the above reasons, claimant voluntarily quit work without good cause and is therefore disqualified from receiving unemployment insurance benefits effective December 20, 2020.

**DECISION:** Order No. 22-UI-193538 is affirmed.

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

**DATE of Service:** August 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.



# 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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