

**EMPLOYMENT APPEALS BOARD DECISION**  
**2023-EAB-0041**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On October 26, 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 benefits effective August 28, 2022 (decision # 104733). Claimant filed a timely request for hearing. On December 9, 2022, ALJ Ainardi conducted a hearing, and on December 14, 2022 issued Order No. 22-UI-209818, affirming decision # 104733. On January 3, 2023, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Mid Columbia Bus Company Inc. employed claimant as a bus driver from July 14, 2021 until August 29, 2022.

(2) Throughout her employment claimant drove the same bus route for the employer. This route ended around 4:30 p.m., which allowed claimant to care for her granddaughter immediately after completing her route.

(3) On August 23, 2022, the employer held a meeting for all bus drivers to prepare for the start of the school year. At this meeting, the employer announced they modified the bus routes to increase efficiency. Claimant's route was significantly altered. The route had an increased number of stops and would end between 5:30 p.m. and 6:00 p.m. At this meeting, the employer also offered employees a list of open routes that they could choose instead of their prior route. Claimant was upset with the changes to her route, but did not discuss these changes or look at the open routes at this meeting.

(4) Around August 24, 2022, claimant contacted an assistant manager for the employer and informed her that she was unhappy with the changes to her route. Claimant stated she could not work until 5:30 p.m. and requested her route be changed back to its previous stops and schedule. The assistant manager informed claimant that "nothing is written in stone," and that she would see if she could adjust claimant's route. Transcript at 10.

(5) The following week claimant spoke with her direct supervisor. She informed him that she was unhappy with the changes to her route and requested that her route be changed back to the stops and schedule in previous years. The supervisor informed her that the assistant manager was working on it and would contact claimant.

(6) The employer had multiple unfilled routes. One of the unfilled routes ended around 4:30 p.m. This unfilled route was an “in town” route as opposed claimant’s previous “country” route. Transcript at 32. Claimant could have driven this route at the start of the school year.

(7) When the school year began, claimant did not report to work and did not contact the employer.

**CONCLUSION AND REASONS:** Claimant 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).

The record shows that the work separation was a voluntary leaving that occurred when claimant refused to drive her modified route around August 29, 2022. Though claimant maintained that she never quit and never provided the employer with a notice of resignation, the record shows that the employer still had work available, and that claimant was unwilling to continue working for the employer. At the initial startup meeting on August 23, 2022, the employer provided claimant with an updated version of her original route, as well as a list of potential alternatives that claimant could have chosen. Claimant was unwilling to work the route that she had previously driven because the changes were unacceptable to her, and she did not look at the list of open routes. When the school year began, claimant could have continued to work for the employer by driving her modified route or by selecting one of the open routes. Because claimant could have continued to work for the employer for an additional period of time, but was unwilling to, the work separation was a voluntary leaving.

**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) (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 voluntarily left work around August 29, 2022 because she refused to accept changes to her bus route or accept a new route. The record shows that claimant faced a grave situation after she received the updates to her original route. Claimant had childcare obligations that began about 4:30 p.m., and the updated route would have required her to work until 5:30 p.m. or 6:00 p.m. This change in her schedule would have left claimant unable to meet her childcare obligations. Given the lack of alternative childcare

options, a reasonable and prudent person would have found this to be a situation of such gravity that they would leave work if there were no reasonable alternative.

However, the record shows that claimant had a reasonable alternative to quitting work when she did. The employer had an open bus route that would have allowed claimant to maintain her previous schedule, and thus would have allowed her to continue providing childcare to her granddaughter. This route was available for claimant to see at the initial meeting, but claimant chose not look at the list of available routes or talk to the assistant manager about alternate routes at this meeting. After the meeting, claimant spoke with her direct supervisor and an assistant manager about her concerns over the route changes. The employer told claimant that the assistant manager was “working on” her route, and that she would call claimant to let her know if it could be adjusted. Transcript at 11.

The parties disagreed about whether the assistant manager ever contacted claimant after their initial conversation. The assistant manager testified that she contacted claimant and offered her a route that met her scheduling needs, but that claimant declined because she preferred “country” routes to “in town” routes. Transcript at 32. Claimant on the other hand testified that she was never contacted after raising her concerns to the employer. Transcript at 11. Even if claimant never received a call back from the employer, the record shows that claimant could have contacted the employer and taken one of their open routes. Among these routes was the “in-town” route that would have allowed claimant to meet her childcare obligations. Thus, under either account, the record shows that claimant had the reasonable alternative of continuing to work for the employer by driving the “in town” route.

Because claimant had a reasonable alternative to leaving work when she did, she did not establish good cause, and is disqualified from receiving benefits based on the work separation.

**DECISION:** Order No. 22-UI-209818 is affirmed.

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

**DATE of Service:** February 28, 2023

**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 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 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**  
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