

**EMPLOYMENT APPEALS BOARD DECISION**  
**2023-EAB-0075**

*Modified*  
*Late Request for Hearing Allowed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On March 4, 2021, 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 March 29, 2020 (decision # 112004). On March 24, 2021, decision # 112004 became final without claimant having filed a request for hearing. On May 17, 2022, claimant filed a late request for hearing. On December 30, 2022, ALJ Goodrich conducted a hearing at which the employer failed to appear and issued Order No. 22-UI-211356, allowing claimant’s late request for hearing and modifying decision # 112004 by concluding that claimant quit work without good cause and was disqualified from receiving benefits effective March 15, 2020. On January 10, 2023, claimant filed an application for review with the Employment Appeals Board (EAB).

Based on a *de novo* review of the entire record in this case, and pursuant to ORS 657.275(2), the portion of the order under review allowing claimant’s late request for hearing is **adopted**. The remainder of this decision concerns the portion of the order under review concluding that claimant quit work without good cause.

**FINDINGS OF FACT:** (1) United Parcel Service Inc. employed claimant as an on-call truck unloader from early March 2020 until March 18, 2020. Claimant lived in Corvallis, Oregon and attended college there while also working for the employer.

(2) Claimant began working for the employer at a facility in Corvallis in early March 2020, and the start of his employment roughly coincided with the beginning of the COVID-19 pandemic. Soon after he was hired, claimant found that the employer was not calling him in to work shifts very frequently. Claimant experienced difficulty paying his bills, including his half of the monthly rent for the housing he shared with his roommate. Claimant’s difficulty paying rent got him “in some financial trouble with [his] landlord.” Transcript at 18. Claimant believed that he was called in too infrequently be “[able to sustain [his] living situation[.]” Transcript at 18.

(3) Between early March 2020 and March 18, 2020, claimant asked his supervisor for more work. The supervisor told him the employer would try to give claimant as much work as they could but “there was very little they could do, . . . because there was some worry about bringing somebody in for more hours right when Covid happened[.]” Transcript at 20.

(4) Claimant was unable to pay his half of the monthly rent for his housing in Corvallis but could live with his grandparents in Klamath Falls, Oregon without having to pay rent. Claimant decided to quit working for the employer and move in with his grandparents in Klamath Falls. Claimant quit work on March 18, 2020.

(5) Prior to leaving work, claimant did not ask his supervisor whether he could transfer to a position working for the employer in Klamath Falls. However, claimant heard at the time that transferring would be unlikely because the employer was not hiring new employees due to uncertainty relating to the COVID-19 pandemic that had just begun. Prior to leaving work, claimant also did not look to see whether there was housing available in Corvallis that he could afford that would enable him to stay in Corvallis and continue working for the employer.

**CONCLUSIONS AND REASONS:** Claimant voluntarily left work with 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) (December 23, 2018). “[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.

The order under review concluded that claimant left work without good cause because he failed to pursue reasonable alternatives to quitting. Order No. 22-UI-211356 at 4. The record does not support this conclusion.

Claimant established good cause to leave work when he did. Claimant did not receive enough work from the employer to pay his bills or his half of the monthly rent where he lived in Corvallis. Claimant’s difficulty paying rent got him “in some financial trouble with [his] landlord,” and claimant believed he could not sustain his living situation based on the amount of work he was receiving. Transcript at 18. Claimant’s difficult financial situation presented him with a grave situation. To address the gravity of the situation, claimant quit working for the employer and moved in with his grandparents in Klamath Falls where he could live rent-free. Quitting work was beneficial to claimant because, although it reduced his income from work to zero, that income had been insufficient to meet his needs, and quitting enabled him to eliminate the monthly rental payment that had placed him in financial trouble with his landlord. *See Oregon Public Utility Commission v. Employment Dep’t.*, 267 Or App 68, 340 P3d 136 (2014) (for a claimant to have good cause to voluntarily leave work, the claimant must derive some benefit for leaving work).

Claimant pursued reasonable alternatives to leaving work. Before he quit, claimant asked his supervisor for more work and was told the employer would try but there was little the employer could do to provide claimant more hours due to concerns relating to the just beginning COVID-19 pandemic. It is logical that concerns about COVID-19, particularly in the earliest days of the pandemic, would cause the employer to be unable to give claimant more work. Therefore, the record shows that it likely would have been fruitless for claimant to refrain from quitting while he waited for the supervisor to try to give him more work. Likewise, though claimant did not request a transfer to a position in Klamath Falls, doing so would likely have been futile and therefore was not a reasonable alternative. Claimant heard at the time that transferring would be unlikely because the employer was not hiring new employees due to uncertainty relating to the COVID-19 pandemic.

The record also shows, more likely than not, that it would have been futile for claimant to look for affordable housing in Corvallis which would enable him to stay in Corvallis and not quit. Claimant lived with a roommate at his home in Corvallis and so was more likely than not responsible for only half of the monthly rent. However, claimant still was in financial trouble with his landlord. The weight of the evidence therefore supports that finding alternative affordable housing in Corvallis would have been too unlikely for it to have been a reasonable alternative to quitting. A reasonable and prudent person in claimant's position would have done as claimant did and opted to live where rent was free.

For these reasons, claimant quit work with good cause and was not disqualified based on the work separation. Accordingly, Order No. 22-UI-211536 is modified in that its conclusion allowing claimant's late request for hearing is allowed, but its conclusion that claimant was disqualified from receiving benefits effective March 15, 2020 is reversed.

**DECISION:** Order No. 22-UI-211356 is modified, as outlined above.

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

**DATE of Service:** March 3, 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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