

**EMPLOYMENT APPEALS BOARD DECISION**  
**2023-EAB-0846**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On May 1, 2023, 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 April 16, 2023 (decision # 91213). Claimant filed a timely request for hearing. On July 12, 2023, ALJ Lucas conducted a hearing, and on July 18, 2023 issued Order No. 23-UI-230730, affirming decision # 91213. On August 2, 2023, 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) Etzel Answering, Inc. employed claimant as a phone representative from approximately October 17, 2022 until April 17, 2023. The employer operated a phone-answering service for a large and diverse set of clients in various industries.

(2) Approximately five years before she worked for the employer, claimant had thyroid cancer, and had her thyroid removed as a result. After the thyroid removal, claimant had more difficulty adapting to stressful situations and managing anxiety. At some point, claimant was diagnosed with generalized anxiety disorder. Exhibit 1 at 2.

(3) As a phone representative, claimant was responsible for answering calls and taking messages for the employer’s clients. Many of the employer’s clients required specific training in order for the phone representatives to be able to field their calls. Before the employer hired her, they explained to claimant that the pay structure for trainees was tiered based on training levels, and that each advancement to the next tier would result in a \$1 per hour raise. The employer also explained to claimant that every trainee advanced at a different rate, depending on how quickly they learned the information necessary to advance.

(4) Also prior to hire, the employer explained to claimant that they operated “24/7/365” and have “calls coming in every minute of every day,” and that employee scheduling is therefore “based on [their] call coverage need.” Transcript at 27. The employer also advised claimant that they permitted employees to

choose either one weekend day (Saturday or Sunday) and another nonconsecutive day, or two consecutive weekdays, as their scheduled days off. Claimant chose Sunday as one of her days off. The employer issued schedules at least one week in advance.

(5) During the course of her employment, claimant felt that she was “being bullied and retaliated against,” did not have “straight information about [her] job duties... [and] pay,” and did not get “accurate training to be able to do the job.” Transcript at 5.

(6) Claimant’s belief that she was being “bullied and retaliated against” stemmed largely from her interactions with the training lead, whom she felt treated her rudely. On February 23, 2023, claimant made a mistake during a call. The training lead observed claimant make the mistake and explained to her what she should have done correctly. When claimant explained why she did what she did, the training lead asked her, “Why wouldn’t you do what I originally trained you to do on this account?” Transcript at 24–25. Claimant took this as a “verbal attack[.]” Transcript at 25. Claimant later approached her manager about the incident. As a result, the manager spoke to the lead trainer about the interaction, who apologized to claimant.

(7) On at least two occasions, the employer failed to timely update claimant’s pay rate to account for her having moved up to the next training tier. The first of these occurred in relation to the December 26, 2022 through January 6, 2023 pay period. In that instance, the employer paid claimant the balance owed to her on the following paycheck. After claimant resigned, she registered a complaint about the pay issue with one of the company’s owners. Afterwards, claimant’s manager reviewed claimant’s pay history, found another instance of having underpaid claimant, and in May 2023 issued claimant a check to account for the missing pay.

(8) During the course of her employment, claimant typically worked one of four shifts: 7:00 a.m. to 3:30 p.m., 8:00 a.m. to 4:30 p.m., 9:30 a.m. to 6:00 p.m., or 10:00 a.m. to 6:30 p.m. Claimant’s request to be scheduled off on Sundays was generally granted, although the employer scheduled her to work on three Sundays during the course of her employment. Claimant felt that the variances in her schedule made it difficult for her to plan for appointments and transportation to work.

(9) Phone representatives were not assigned specific workstations at the employer’s worksite. Instead, they were able to choose any open workstation to work at, and were permitted to switch stations in the middle of their shift if they needed, for example, to work at a standing desk. Early in her employment, claimant requested to use one of the standing desks in a particular room at the employer’s worksite, but was told that it was not available because the lead trainer was conducting training in that room. Claimant continued to want to use that desk, but believed she was not permitted to do so. In January 2023, claimant asked one of the owners if she was allowed to use the desk, and he told claimant that she was allowed. However, claimant declined to do so, because she had “already been told no, and [she didn’t] want to cause any issues.” Transcript at 33–34.

(10) During the course of her employment, claimant often felt that she had not been adequately trained for the work she was assigned. Claimant expressed this concern to two supervisors at another of the employer’s locations, as well as to claimant’s manager. The supervisors, and claimant’s manager, “sometimes” addressed claimant’s concerns. Transcript at 32. The employer’s system included a feature called “auto-answer,” which would cause a phone representative’s phone to automatically pick up a call

when it was directed to them. Transcript at 30. This feature was not meant to be enabled for any given phone representative until they had been trained on its usage. Claimant was scheduled for this training on a Friday, but called out from work that day so did not receive training on it. Nevertheless, auto-answer was enabled on her phone when she reported for work the following day. Claimant reported this to a supervisor, who contacted claimant's manager. Claimant's manager turned off the feature shortly thereafter, apologized to claimant, and left the feature off until claimant was trained on it.

(11) As a result of her various concerns, above, claimant felt that she "couldn't handle the stress [of the job] anymore." Transcript at 20–21. Claimant spoke to one of her medical providers about the stress, who advised her that she "need[ed] to be done." Transcript at 22.

(12) On April 7, 2023, claimant contacted one of the owners about her concerns about being "bullied and being retaliated against" and other similar concerns. Transcript at 8. The owner asked claimant why she had not reported these concerns previously and claimed she had "never heard any of it." Transcript at 10. At that point, claimant came to believe that "the managers were lying to the owner about [her]," or otherwise not reporting her concerns to the owner, and decided that there "was no point to continue." Exhibit 3 at 1.

(13) One of claimant's medical providers wrote her a note excusing her for work from April 8 through 11, 2023 for "severe stress reaction." Exhibit 1 at 2. On April 12, 2023, claimant worked a partial shift for the employer before being "sent home." Transcript at 4. On April 17, 2023, claimant called the employer and notified them that she was quitting effective that day. Claimant quit due to the stress of the various concerns, above.

**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). Claimant had generalized anxiety disorder, a permanent or long-term "physical or mental impairment" as defined at 29 CFR §1630.2(h). A claimant with an impairment who quits work must show that no reasonable and prudent person with the characteristics and qualities of an individual with such an impairment would have continued to work for their employer for an additional period of time.

29 C.F.R. §1630.2(h) defines "physical or mental impairment" as:

(1) Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine; or

(2) Any mental or psychological disorder, such as an intellectual disability (formerly termed “mental retardation”), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Claimant voluntarily quit work due to the stress she experienced as a result of several concerns she had regarding working conditions and interactions with coworkers, as well as her belief that management was “lying” about her to one of the owners of the company. As a preliminary matter, the standard for whether claimant had good cause to voluntarily quit in this matter depends on whether she had a permanent or long-term physical or mental impairment. The record shows that claimant was, at some point, diagnosed with generalized anxiety disorder, but does not show how long that diagnosis was in place. However, given that claimant’s difficulty in managing stress appeared to be the result of her cancer treatment, several years prior to working for the employer, claimant more likely than not suffered from that disorder prior to working for the employer. It is therefore reasonable to conclude that claimant’s impairment was permanent or long-term. As such, claimant’s circumstances are considered from the perspective of a reasonable and prudent person with the characteristics and qualities of an individual with such an impairment.

Additionally, it should be noted that while claimant expressed concerns about a multitude of different issues over the course of her employment, and the resulting stress she experienced, it appears that the event which precipitated her decision to quit was a conversation with one of the company’s owners on April 7, 2023 which led her to believe that management was not taking her concerns seriously or “lying” about her. The record shows that claimant obtained a doctor’s note for time off the day after she had the conversation with the owner, and only worked one additional partial shift after this, before quitting several days later. Given the lack of details surrounding these absences, it is reasonable to conclude from the record that claimant became frustrated or upset due to the owner’s response to her report, experienced stress as a result, and then decided to quit.

Although the employer’s testimony at hearing casts some doubt on claimant’s belief that management had lied to or about claimant,<sup>1</sup> whether claimant had good cause to quit does not turn on this point. Claimant’s account of her time working for the employer included multiple complaints regarding seating arrangements, the adequacy of her training, difficulties in interacting with coworkers, mistakes in pay, and similar. Given the breadth of claimant’s concerns, it is clear from the record that it was the aggregation of all of them that constituted the proximate cause of her decision to quit, even if the conversation with the owner on April 7, 2023 triggered her decision.

By claimant’s own admission, however, many of these concerns were at least partially addressed by the employer. Further, while all of these concerns may have understandably caused claimant inconvenience, none of them were so objectively serious as to rise above the level of typical workplace frustrations. It is nevertheless clear from the record that claimant subjectively found these various concerns to be stressful. However, claimant did not meet her burden to show that a reasonable and prudent person with generalized anxiety disorder—even one who had an atypically difficult time managing stress due to a medical issue—would have quit.

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<sup>1</sup> For instance, claimant’s manager testified that, contrary to claimant’s belief, the manager did report the February 2023 incident between claimant and the lead trainer to the owner. Transcript at 38.

Claimant suggested broadly that the stress of the job impacted her “health and well being.” Exhibit 3 at 1. However, claimant did not describe any effects that this stress had on her physical or mental health, or that quitting work alleviated any such effects.<sup>2</sup> Likewise, although claimant did make efforts to resolve the various individual concerns that caused her stress, a reasonable and prudent person, even suffering from the same conditions that claimant suffered from, could not expect any workplace to remain free of stress. The record shows that claimant sought (and seemingly obtained) the approval of her medical providers to take time off from work or to quit. However, claimant did not offer evidence of any efforts she made (such as medication or therapy) that could help her manage stress better and potentially continue to work for the employer. A reasonable and prudent person, understanding that stress is an inherent part of most occupations, would have made such efforts before concluding that they could no longer continue working.

Because claimant did show how, in specific terms, the stress of the job negatively affected her, and further did not show that she sought to mitigate that stress, claimant did not meet her burden to prove that she faced a situation of such gravity that she had no reasonable alternative but to quit. Therefore, claimant quit work without good cause, and is disqualified from receiving unemployment insurance benefits effective April 16, 2023.

**DECISION:** Order No. 23-UI-230730 is affirmed.

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

**DATE of Service:** September 15, 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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<sup>2</sup> *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).



# 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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