

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0156**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On December 8, 2023, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit without good cause and was disqualified from receiving unemployment insurance benefits effective September 17, 2023 (decision # 72539). Claimant filed a timely request for hearing. On January 22, 2024, ALJ Fraser conducted a hearing, at which the employer failed to appear, and issued Order No. 24-UI-246154, affirming decision # 72539. On February 6, 2024, claimant filed an application for review with the Employment Appeals Board (EAB).

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

**FINDINGS OF FACT:** (1) Daimler Truck North America employed claimant from July 21, 2008, until September 21, 2023. The employer was a freight truck manufacturer and claimant worked as a production part approval process coordinator. Exhibit 1 at 26.

(2) Claimant had a tense relationship with her manager. Claimant believed that the manager singled her out, excluded her, and treated her differently from others.

(3) On September 27, 2022, claimant had an email exchange with the manager in which claimant took on a harsh tone and questioned the manager's instruction. Exhibit 1 at 47. On September 29, 2022, claimant had a meeting with the manager. Claimant believed the manager unfairly accused claimant of yelling during this meeting. Thereafter, claimant requested a Human Resources (H.R.) representative be present in her meetings with the manager.

(4) On October 13, 2022, claimant, the manager, and an H.R. representative had a meeting at which the manager presented claimant with a written warning. The warning cited as unprofessional claimant's September 27, 2022, email communications with the manager and claimant's conduct during the September 29, 2022 meeting. Exhibit 1 at 30. The warning also cited an August 2022 incident in which claimant sent emails with a harsh tone to a coworker in the employer's engineering department as unprofessional. Exhibit 1 at 30, 31-35.

(5) In late August 2023, claimant was assigned to work with an intern who was working on a project relating to the production part approval process. On August 31, 2023, claimant had a meeting with the manager in which claimant felt the manager unfairly accused her of not sufficiently helping the intern with the project. Afterwards, claimant approached the director of her department, who was the manager's boss. Claimant and the director spoke about claimant's tension with the manager. The director suggested that claimant consider a lateral move to a different department within the company.

(6) On September 8, 2023, claimant had another meeting with the manager. Thereafter, the manager was "pulled . . . out of the equation" and no longer appeared in meetings with claimant. Transcript at 19.

(7) On September 11, 2023, claimant sent an email advising the director and the manager that she was going to "consider a new opportunity within the company" and was "actively looking for the next step in advancing [her] career" with the employer. Exhibit 1 at 17. Claimant stated that while she looked within the company for another position "it would be advantageous to successfully and seamlessly hand off" tasks relating to the production part approval process. Exhibit 1 at 17. On that day, claimant applied for a marketing analyst job with the employer.<sup>1</sup>

(8) On September 19, 2023, claimant had a meeting with the director and an H.R. representative at which claimant was presented with a final written warning. The final warning outlined occasions in which claimant was described as using a rude tone in emails and being unsupportive of coworkers, among other things. Exhibit 1 at 56-57; 73. The warning specified, "Any future violations of this nature may result in further disciplinary action, up to and including termination of employment." Exhibit 1 at 57.

(9) During the September 19, 2023, meeting the director advised that claimant's role would be changing from the production part approval process to more of a role in support of the director, although claimant would continue to report to the manager. That evening, the director sent claimant an email outlining the aspects of claimant's job that were on hold and the aspects claimant was to take on beginning September 25, 2023. Exhibit 1 at 5-7.

(10) The next day, September 20, 2023, claimant was absent from work due to illness. On September 21, 2023, claimant sent an email resigning effective immediately. Exhibit 1 at 3. Claimant stated she was resigning because the work environment was too hostile and dysfunctional for her to continue. Exhibit 1 at 3.

**CONCLUSIONS AND REASONS:** Claimant voluntarily left 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

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<sup>1</sup> As of the September 21, 2023 date of claimant's work separation, the employer had not taken action on claimant's application for the marketing analyst job.

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 on September 21, 2023, because she regarded the work environment as too hostile and dysfunctional for her to continue, which likely was a reference to the difficult relationship she had with her manager. Claimant did not show that she voluntarily left with good cause based on her difficult relationship with the manager.

At hearing, claimant asserted that the manager singled her out, excluded her, and treated her differently from others. Transcript at 10. Claimant testified that her interactions with the manager caused her to experience anxiety and stress. Transcript at 16. Claimant attributed physical ailments like body numbness and a worsened hives condition to the tense working relationship. Transcript at 16. However, the record fails to show that the manager engaged in behavior that was abusive or otherwise objectively improper. In her testimony, claimant did not identify any concrete examples of being subjected to poor treatment by the manager. Review of the documentary evidence in the record shows that the manager's email communications with claimant were cordial and maintained an appropriate tone. *See* Exhibit 1 at 47, 74-75.

The manager presented claimant with a written warning on October 13, 2022, and likely played a role in the final written warning claimant received on September 19, 2023. However, claimant did not prove that the manager's role in imposing this discipline amounted to objectively unreasonable treatment that would cause a reasonable and prudent person to quit work. The October 13, 2022, warning cited claimant's September 27, 2022 email exchange with the manager in which claimant took on a harsh tone and questioned the manager's instruction as well as an August 2022 incident in which claimant had sent emails with a harsh tone to a coworker in the employer's engineering department. Exhibit 1 at 30. The record supports that claimant's emails on these occasions had a tone that could be perceived as harsh or unprofessional. Exhibit 1 at 47; 31-35. Similarly, the September 19, 2023, final warning was based, in part, on the assertion that claimant had been unsupportive of the intern assigned to the project relating to the production part approval process, and the record contains evidence that could be viewed as support for the proposition that claimant was not fully engaged in that task. Exhibit 1 at 56-57; 73, 76.

Moreover, at the time claimant resigned, the director had advised that she intended to change the nature of claimant's job into more of a role in support of the director. Although claimant was still to report to the manager in this modified role, given that claimant was to work in a support role for the director, claimant was likely to have interacted with the manager on a less frequent basis. That it was possible for claimant to limit her interactions with the manager is bolstered by the fact that the employer had honored claimant's request to have an H.R. representative present for her meetings with the manager, and, after September 8, 2023, the manager was "pulled . . . out of the equation" and no longer appeared in meetings with claimant at all. Transcript at 19. For the reasons discussed above, claimant did not establish that her tense relationship with the manager presented her with a situation of such gravity that she had no reasonable alternative but to quit. Claimant therefore voluntarily left work without good cause to the extent she quit work for this reason.

To the extent claimant quit work on September 21, 2023, because the director intended to change her role from the production part approval process to a role in support of the director, claimant also failed to

show she faced a grave situation. The director's September 19, 2023, email, in which she outlined her contemplated modifications to claimant's role, lists a series of production part approval process tasks which are labeled as being "ON HOLD." Exhibit 1 at 6. The fact that the tasks were listed as on hold suggests it may have been possible for claimant to regain the tasks as part of her role. Further, even if claimant faced a permanent loss of the production part approval process aspects of her job, a reasonable and prudent person would have continued working for the employer. Claimant made no assertion that her pay, job title, or seniority were to be affected by the contemplated role modification. Moreover, claimant exhibited a willingness to part ways with performing production part approval process-related work for the employer, given that she applied for a marketing analyst job with the employer on September 11, 2023. Indeed, on the day claimant did so, she stated by email that while she looked within the company for another position "it would be advantageous to successfully and seamlessly hand off" tasks relating to the production part approval process. Exhibit 1 at 17. Accordingly, claimant did not establish that losing the production part approval process aspects of her job presented her with a situation of such gravity that she had no reasonable alternative but to quit. Claimant therefore voluntarily left work without good cause to the extent she quit work for this reason.

Finally, to the extent claimant voluntarily left work on September 21, 2023, because of a concern that the employer would terminate her employment, claimant also quit work without good cause. It is possible for an individual to quit work with good cause to avoid being discharged, but, under *McDowell v. Employment Dep't.*, 348 Or 605, 236 P3d 722 (2010), this is only the case if the discharge was imminent, inevitable, and would be the "kiss of death" to claimant's future job prospects. Here, although claimant had received a final written warning on September 19, 2023, claimant did not face an imminent or inevitable discharge. The warning specified, "Any future violations of this nature may result in further disciplinary action, up to and including termination of employment." Exhibit 1 at 57. Accordingly, by the terms of the final warning, it was necessary for claimant to have another alleged violation before she could be discharged. Moreover, the fact that the director advised claimant on September 19, 2023, of her modified role going forward, along with a detailed outline of the job tasks that were on hold versus those claimant was expected to carry out, bolsters that the director contemplated claimant would continue her employment, and therefore that claimant did not face an imminent or inevitable discharge. Exhibit 1 at 5-7. Claimant therefore voluntarily left work without good cause to the extent she quit work for this reason.

For the foregoing reasons, claimant voluntarily quit work without good cause. Claimant is disqualified from receiving unemployment insurance benefits effective September 17, 2023.

**DECISION:** Order No. 24-UI-246154 is affirmed.

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

**DATE of Service:** March 13, 2024

**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**  
 Phone: (503) 378-2077 | 1-800-734-6949 | Fax: (503) 378-2129 | TDD: 711  
[www.Oregon.gov/Employ/eab](http://www.Oregon.gov/Employ/eab)

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