

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0174**

*Modified*  
*Disqualification*

**PROCEDURAL HISTORY:** On December 27, 2023, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit work without good cause and therefore was disqualified from receiving unemployment insurance benefits effective October 8, 2023 (decision # 81813). Claimant filed a timely request for hearing. On February 1, 2024, ALJ Messecar conducted a hearing at which the employer failed to appear, and on February 9, 2024 issued Order No. 24-UI-247733, affirming decision # 81813. On February 12, 2024, claimant filed an application for review with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** Claimant filed written arguments on February 12, 2024 and February 16, 2024. EAB did not consider claimant's February 12, 2024 argument when reaching this decision because she did not include a statement declaring that she provided a copy of her argument to the opposing party as required by OAR 471-041-0080(2)(a) (May 13, 2019). Claimant's February 16, 2024 argument contained information that was not part of the hearing record, and did not show that factors or circumstances beyond claimant's reasonable control prevented her from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090, EAB considered only information received into evidence at the hearing when reaching this decision. EAB considered claimant's February 16, 2024 argument to the extent it was based on the record.

**FINDINGS OF FACT:** (1) Claimant worked for Rite Aid as a pharmacy technician at one of the employer's retail pharmacies from October 31, 2022 through October 7, 2023.

(2) Claimant typically worked Monday through Friday, from 9:00 a.m. to 5:30 p.m. However, claimant's schedule varied to some extent, and she sometimes worked different shifts.

(3) Starting around late April 2023, claimant began experiencing difficulties with two of her coworkers: one of the pharmacists, and another of the pharmacy's technicians. The pharmacist engaged in behaviors such as using foul language around or towards claimant when claimant made a mistake, while claimant felt that the other technician did not perform enough work, leaving claimant to make up the difference in

the workload. Additionally, claimant felt that the pharmacist “favor[ed], coddle[d], and [flirt]ed” with the other technician, who “reciprocate[d]” the pharmacist’s attentions. Exhibit 1 at 3. The combination of these concerns led claimant to feel that the pharmacist favored the other technician to claimant’s detriment, and, generally, that claimant was a victim of “disrespect and bias.” Exhibit 1 at 3.

(4) On June 8, 2023, claimant sent an email to the employer’s regional human resources (HR) manager, outlining her above concerns. The HR manager responded shortly thereafter, asking claimant for consent to contact the pharmacy’s manager and discuss the matter with him. Claimant responded to the HR manager’s email, explaining, in relevant part, that she was concerned that the pharmacist might retaliate against claimant because of the report she made. On June 9, 2023, the HR manager sent another email to claimant, explaining that “there [had] been a conversation with [the pharmacist] to address how he is supporting the team with learning, communication, respect and more.” Exhibit 1 at 5. The HR manager also advised in that email that claimant should let her or another member of upper management know if claimant felt like any future interaction with the pharmacist was “retaliatory, disrespectful or inappropriate,” and to “share any concerns or observations about [the other technician] if she has ‘attitude.’” Exhibit 1 at 5.

(5) On August 24, 2023, claimant contacted the HR manager again regarding the pharmacist and the other pharmacy technician. Claimant stated that since her previous complaint, “things [had] become almost unbearable” for claimant, particularly regarding the other technician, who “absolutely hate[d] and despise[d] claimant.” Exhibit 1 at 6. Claimant further explained that the pharmacist and the other technician “continually [made] snide, rude and disrespectful comments,” and that the situation led claimant to consider walking off the job. Exhibit 1 at 6. The HR manager responded the next day, advised claimant that she would discuss the matter with the regional pharmacy manager, and stated that she wanted to “allow [claimant’s manager] the opportunity to address [the situation] with disciplinary action at the store level.” Exhibit 1 at 6.

(6) Around late September 2023, claimant’s husband “freak[ed] out on” claimant and her children and “walked out the door[.]” Thereafter, claimant’s daughter was experiencing a lot of “mental stuff” and was afraid to be left home by herself. Transcript at 23-24. Claimant discussed the matter with the pharmacy’s manager, and explained to the manager that she would not be able to work later than her typical end time as a result of those circumstances. The manager told claimant at the time that she understood and “saw no reason that the schedule was gonna change” at that time. Transcript at 24.

(7) On October 4, 2023, claimant’s manager told claimant that, due to pharmacist scheduling issues, claimant would be required to work until 8 p.m. during some shifts, starting the following Monday, October 9, 2023. Claimant reminded her manager that she could not work that late, and the manager responded by telling claimant to speak to the regional pharmacy manager about it. Claimant did so the following day, but the regional manager told claimant that she and her manager would have to resolve the scheduling matter between themselves.

(8) On October 6, 2023, claimant worked her final shift for the employer, although she did not intend to quit when she began the shift. That day, claimant’s manager told claimant that since claimant could not work until 8:00 p.m. as the manager had indicated, claimant would need to fill out a scheduling availability form to indicate when she was available to work. Claimant did so, indicating that she could work any day of the week from 9:00 a.m. to 6:00 p.m., and handed it in to her manager. A short time

later, the manager approached claimant and told her that if she could not work until 8:00 p.m., the manager could not guarantee that claimant would continue to be given full-time hours once new employees were hired. Claimant tried to continue discussing the matter with her manager, but the manager rebuffed her efforts and told her to get back to work.

(9) Claimant returned to her work, but was upset and was “trying not to cry.” Transcript at 11. About an hour later, claimant spoke to her manager again and told her, “[f]or months I have dealt with so much disrespect, I’ve dealt with everything that’s come at me. I’ve dealt with the insults, the innuendos, the embarrassment. I said I’ve divulged my personal life information to you. I said I came here to do exactly what I was supposed to do and we had an agreement.” Transcript at 11–12. The manager responded, “Well, you can go home and you can think about it and let me know what you’re gonna do.” Transcript at 12. Claimant returned home to consider whether she wanted to continue working for the employer.

(10) On October 7, 2023, claimant sent her manager a text message stating that she had decided to quit. Claimant would not have quit at that time if not for the scheduling issue, which she felt the manager had handled in a “callous and disrespectful” manner. Transcript at 14. However, her decision to quit was also motivated, in part, by the difficulties she had been experiencing with the pharmacist and the other technician.

**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.

Claimant voluntarily quit work due to two different concerns: first, the schedule change that conflicted with her childcare needs; and second, the difficulties she had been having with two of her coworkers. Although claimant’s frustration with these concerns is understandable, neither constituted a situation of such gravity that she had no reasonable alternative but to quit.

Regarding the scheduling matter, claimant testified at hearing that her decision to quit was motivated less by the schedule change itself than by the fact that her manager was “callous and disrespectful” about how she handled it with claimant. Transcript at 13–14. This apparently referred to the manager’s earlier indication that claimant would not have to work later shifts, on account of her childcare situation, followed by the manager’s reversal and general unwillingness to accommodate claimant’s requested schedule. While claimant characterized this reversal as a personal affront, the record shows that it was merely the result of the pharmacy’s scheduling needs changing. To the extent that claimant quit due to this perceived disrespect, a reasonable and prudent person would not have left work for such a reason.

Similarly, a reasonable and prudent person would not have concluded that they had no reasonable alternative but to quit in regard to the scheduling issue itself. At hearing, claimant gave a vague description of the childcare issue that prevented her from being available to work as late as her manager had requested. It is possible that working until 8:00 p.m. could have required her to leave young children at home by themselves, which would likely be a grave situation. Moreover, claimant indicated her daughter was afraid to be home alone, which could also be a grave situation. However, the record does not show that claimant would have been required to work that late if she continued working for the employer. Rather, the manager's responses indicated that claimant *could* refuse to work that late, but that doing so might eventually result in a reduction in hours, once the pharmacy hired additional staff.

Therefore, at the time that she left work, claimant was faced with either accepting a schedule that did not work for her personal circumstances, or face a potential reduction in hours at some indeterminate point in the future. No immediate harm would have apparently come to claimant, regarding her schedule or number of work hours, if she continued working for the employer for an additional period of time. Therefore, claimant's situation at that time was not grave.<sup>1</sup>

Regarding the difficulties that claimant had been experiencing with two of her coworkers, the record also fails to show that claimant's circumstances were of such gravity that she had no reasonable alternative but to quit. First, although claimant stated to her manager on October 6, 2023 that she had been dealing with "disrespect" and similar concerns for several months, the record contains no clear indication that the difficulties with her coworkers persisted past the end of August 2023. The last discussion of those difficulties in the record is the August 25, 2023 email that the HR manager sent in response to claimant's complaint the previous day. Without evidence showing that these difficulties actually continued to trouble claimant at the time she quit, the circumstances surrounding them cannot be considered grave.

Furthermore, even if claimant's coworker difficulties *did* continue through the date on which she quit, claimant's complaints about those coworkers essentially amounted to their behaving in a rude and unprofessional manner that claimant found offensive. Again, claimant's frustration here is understandable. However, even if claimant subjectively felt that she could not continue working with those coworkers, a reasonable and prudent person, faced with such difficulties, would not conclude that these circumstances were of such gravity that they had no reasonable alternative but to quit. This is particularly true given the responses that claimant received from the employer's HR manager, which indicated both that the employer took claimant's allegations seriously and that they had already intervened in the matter at least once. As such, continuing to follow up with HR or upper management would have been a reasonable alternative to quitting. The record does not indicate that claimant did so after August 24, 2023, however. Therefore, even if claimant's difficulties with her coworkers were grave, she failed to seek reasonable alternatives to quitting.

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<sup>1</sup> Under OAR 474-030-0038(5)(e), a claimant who leaves work due to a reduction in hours "has left work without good cause unless continuing to work substantially interferes with return to full time work or unless the cost of working exceeds the amount of remuneration received." The record was not developed regarding these points. However, as claimant did not quit due to a present reduction in hours, but instead the mere threat of a reduction in hours at some undetermined point, this portion of the rule does not apply to her circumstances.

For the above reasons, claimant voluntarily quit work without good cause, and therefore is disqualified from receiving unemployment insurance benefits effective October 1, 2023. Because claimant left work on October 7, 2023, the order under review is modified to reflect that claimant's disqualification is effective October 1, 2023, rather than October 8, 2023, as concluded by the order under review. *See* Order No. 24-UI-247722 at 3.

**DECISION:** Order No. 24-UI-247733 is modified, as outlined above.

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

**DATE of Service:** March 18, 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  
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