

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0411**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On November 17, 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 October 1, 2023 (decision # 144408). Claimant filed a timely request for hearing. On January 29, 2024, ALJ Fraser conducted a hearing and issued Order No. 24-UI-246716, affirming decision # 144408. On February 16, 2024, claimant filed an application for review with the Employment Appeals Board (EAB). On March 22, 2024, EAB issued EAB Decision 2024-EAB-0180, setting aside Order No. 24-UI-246716 and remanding the matter for further development of the record to determine whether claimant quit with good cause. On April 9, 2024, ALJ Fraser conducted a hearing, and on April 10, 2024, issued Order No. 24-UI-251884, re-affirming decision # 144408. On April 29, 2024, claimant filed a timely application for review of Order No. 24-UI-251884 with EAB.

**WRITTEN ARGUMENT:** Claimant's 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 (May 13, 2019), EAB considered only information received into evidence at the hearing when reaching this decision. EAB considered claimant's argument to the extent it was based on the record.

The basis for remanding this matter was to determine whether claimant's offer of other work was to begin in the shortest period of time reasonable under the circumstances, per OAR 471-030-0038(5)(a) (September 22, 2020). EAB Decision 2024-EAB-0180 at 3-4. The order under review concluded that because claimant quit six weeks prior to the planned start date of the other work she had quit to accept, claimant's new job did not begin in the shortest period of time reasonable under the circumstances. Order No. 24-UI-251884 at 3. In her written argument, claimant assigned error to this conclusion, asserting, "It is inconsistent to find that I had a solid job offer with a definite start date, then find that my claim should be denied because that start date was 6 weeks away yet was set and determined by the new employer." Claimant's Written Argument at 3. Although claimant's position is understandable, this argument misconstrues the language of that portion of the rule.

The requirement that the offered work begin in the shortest length of time as can be deemed reasonable under the individual circumstances refers not just to the planned start date of that work, but the amount of time that passes *between* the individual's last day of work for their previous employer and the planned start date of the offered work. Thus, while claimant may be correct in stating that the new employer determined the start date itself, the record shows that claimant was fully in control of the amount of time that was to pass between the two jobs. Therefore, claimant's decision to quit approximately six weeks prior to the planned start date of the offered work remains relevant to the question of whether the offered work started within the shortest length of time reasonable under the circumstances.

Likewise, there is nothing inconsistent about finding that claimant had a "solid job offer with a definite start date" but nevertheless finding that claimant quit without good cause because of the length of time between when she quit and when the offered work was scheduled to start. In order to find that an individual who quit work to accept other work has quit with good cause, OAR 471-030-0038(5)(a) requires that the offered work meets four separate criteria. The work must start in the shortest period of time reasonable, as discussed above. It must also be definite, reasonably expected to continue, and pay more than the work the individual has left, or at least as much as that individual's weekly benefit amount. Claimant's circumstances met the last three criteria, as previously discussed. *See* EAB Decision 2024-EAB-0180 at 2–3. Even so, the shortest-length-of-time criterion must still be met, and as noted, it was not met in this case.

Claimant also posed in her argument the question, "...why isn't it considered good cause to leave by not using my accrued leave, when it doesn't change the timeframe between jobs or effect [*sic*] the outcome?" Claimant's Written Argument at 2. This apparently refers to the order under review's assertion that claimant "could have stayed employed and used her sick time and vacation time when she needed to attend her appointments and prepare her move to Guatemala." Order No. 24-UI-251884 at 3. This assertion suggests, though, that if claimant had so utilized her paid leave, the timeframe between claimant's departure and the planned start date of the offered work would, in fact, have been shortened—not that claimant should have simply used all of her accrued leave to remain employed without working for some or all of the six weeks that followed her departure.

For instance, claimant explained at hearing that some of the matters she had to attend to prior to moving to Guatemala consisted of "essential" appointments, including seven medical appointments. Transcript at 7. However, claimant also testified, "I wish I would have used my sick time [for medical appointments] but I didn't. I got in the habit of making them on dates I wasn't working so I didn't hardly use my sick leave, and when I left I had to lose all that sick leave, so I wished I would have used it then, yes." Transcript at 18. This strongly suggests that claimant could have continued working for at least some of the six weeks that followed her departure from the employer and, when necessary, used paid leave to cover absences. Therefore, the above assertion by the order under review is supported by the record, and shows that the offered work was not scheduled to begin in the shortest length of time as could be deemed reasonable under these circumstances.

EAB considered the entire hearing record. EAB agrees with Order No. 24-UI-251884's findings of fact, reasoning, and conclusion that claimant quit work without good cause. Pursuant to ORS 657.275(2), Order No. 24-UI-251884 is **adopted**.

**DECISION:** Order No. 24-UI-251884 is affirmed.

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

**DATE of Service: June 7, 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**

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**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.

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