

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0565**

*Late Application for Review Allowed*  
*Affirmed - Disqualification*

**PROCEDURAL HISTORY:** On April 16, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged, but not for misconduct, and claimant therefore was not disqualified from receiving benefits based on the work separation (decision # L0003785364). The employer filed a timely request for hearing. On May 31, 2024, notice was served scheduling a hearing for June 10, 2024. Claimant requested that the hearing be postponed and, on June 10, 2024, ALJ Mellor granted a postponement of the hearing. On June 20, 2024, ALJ Mellor conducted a hearing. On July 9, 2024, ALJ Mott<sup>1</sup> issued Order No. 24-UI-258439, reversing decision # L0003785364 by concluding that voluntarily quit work without good cause and was disqualified from receiving benefits effective March 3, 2024. On July 29, 2024, Order No. 24-UI-258439 became final without claimant having filed an application for review with the Employment Appeals Board (EAB). On July 30, 2024, claimant filed a late application for review with EAB. This matter comes before EAB based upon claimant's July 30, 2024, late application for review of Order No. 24-UI-258439.

**EVIDENTIARY MATTER:** EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence is claimant's written statement attached to his late application for review. The written statement has been marked as EAB Exhibit 1, and a copy provided to the parties with this decision. Any party that objects to our admitting EAB Exhibit 1 must submit such objection to this office in writing, setting forth the basis of the objection in writing, within ten days of our mailing this decision. OAR 471-041-0090(2). Unless such objection is received and sustained, the exhibit will remain in the record.

<sup>1</sup> ALJ Mott issued Order No. 24-UI-258439 based upon the record developed at the June 29, 2024, hearing because ALJ Mellor subsequently became unavailable. Order No. 24-UI-258439 at 1.

**FINDINGS OF FACT:** (1) Warner Pacific College employed claimant from January 20, 2023, until March 8, 2024. The employer hired claimant to be Dean of the employer's Post Graduate Studies program and initially employed claimant in that position.

(2) The employer experienced financial difficulties and, as a cost saving measure, in late 2023, the employer demoted a number of their employees to positions that paid less and involved fewer duties.

(3) On November 10, 2023, claimant's supervisor held a meeting with claimant and informed him that the employer intended to demote claimant effective December 1, 2023, from Dean of Post Graduate Studies to interim Associate Dean. In the new position, claimant would have fewer responsibilities and his pay would be reduced from \$85,000 per year to \$68,000 per year.

(4) On November 22, 2023, claimant's supervisor sent claimant a follow up email that stated the main points discussed during the November 10, 2023, meeting. In the email, the supervisor mentioned that the employer would eventually post the permanent Associate Dean position, with the posting likely to run from mid-December 2023 through February 2024, and interviews likely to occur in March 2024. The supervisor invited claimant to apply when the permanent Associate Dean position was posted.

(5) Claimant had a medical leave previously scheduled to begin January 9, 2024. In November 2023, claimant and the employer agreed that claimant would take the medical leave beginning November 29, 2023. On that date, claimant began his medical leave. Claimant's leave was scheduled to end March 8, 2024.

(6) On December 1, 2023, the employer demoted claimant from Dean of Post-Graduate Studies to interim Associate Dean, as planned. The employer automatically placed claimant in the Interim Associate Dean position without any need for claimant to apply or interview for the position.

(7) On February 22, 2024, claimant emailed the employer's Human Resources (HR) director stating that he intended March 8, 2023, to be his last day working for the employer. On February 26, 2024, the HR director emailed claimant back stating that the demotion to interim Associate Dean was effective December 1, 2023, and was claimant's current position title. The HR director further stated, "I wanted to be completely clear that this position is one you are welcome to remain in as you come off your leave." Exhibit 1 at 2.

(8) As of February 26, 2024, the employer had not posted the permanent Associate Dean position. In the HR director's February 26, 2024, email, the director told claimant, "You are also welcome to apply for the permanent Associate Dean of PGS role as we start our search." Exhibit 1 at 2.

(9) On March 5, 2024, claimant emailed the HR director again. In the email, claimant stated with respect to the interim Associate Dean position that "recent developments, such as the 20% pay cut (\$85,000 to \$68,000) and the time frame of the elimination of the role and replacement with another has made it not to be considered." Exhibit 1 at 1.

(10) On March 8, 2024, claimant's medical leave ended and claimant stopped working for the employer.

**CONCLUSIONS AND REASONS:** Claimant voluntarily left work without good cause.

**Late Application for Review.** An application for review is timely if it is filed within 20 days of the date that the Office of Administrative Hearings (OAH) mailed the order for which review is sought. ORS 657.270(6); OAR 471-041-0070(1) (May 13, 2019). The 20-day filing period may be extended a “reasonable time” upon a showing of “good cause.” ORS 657.875; OAR 471-041-0070(2). “Good cause” means that factors or circumstances beyond the applicant’s reasonable control prevented timely filing. OAR 471-041-0070(2)(a). A “reasonable time” is seven days after the circumstances that prevented the timely filing ceased to exist. OAR 471-041-0070(2)(b). A late application for review will be dismissed unless it includes a written statement describing the circumstances that prevented a timely filing. OAR 471-041-0070(3).

The application for review of Order No. 24-UI-258439 was due by July 29, 2024. Because claimant did not file his application for review until July 30, 2024, the application for review was late.

In the written statement claimant submitted with his application for review, claimant explained that due to interruptions to mail delivery caused by Hurricane Beryl, he did not receive Order No. 24-UI-258439 until July 30, 2024. *See* EAB Exhibit 1 at 1. The delayed delivery of the order under review was a circumstance beyond claimant’s reasonable control that prevented a timely filing. That circumstance ceased to exist on July 30, 2024, when claimant received the order under review. Claimant filed his application for review the same day, which was within a seven-day reasonable time. Thus, claimant established good cause to extend the application for review filing deadline and filed within a reasonable time. The late application for review is therefore allowed.

**Nature of the Work Separation.** If the employee could have continued to work for the same employer for an additional period of time, the work separation is a voluntary leaving. OAR 471-030-0038(2)(a) (September 22, 2020). If the employee is willing to continue to work for the same employer for an additional period of time but is not allowed to do so by the employer, the separation is a discharge. OAR 471-030-0038(2)(b).

The work separation was a voluntary leaving that occurred on March 8, 2024. When the employer placed claimant in the interim Associate Dean position on December 1, 2023, the employment relationship remained intact because claimant’s demotion was automatic without any need for claimant to apply or interview for the new interim Associate Dean position.<sup>2</sup> Claimant remained employer-attached while on his medical leave from November 29, 2023, through March 8, 2024. As March 8, 2024, drew near, claimant emailed the employer’s HR director that he intended March 8, 2023 to be his last day working for the employer. Exhibit 1 at 3. In a reply email, the HR director made clear that claimant was welcome to remain interim Associate Dean after his leave ended on March 8, 2024. Exhibit 1 at 2. Claimant responded on March 5, 2024, citing the reduction in pay and “the time frame of the elimination of the role and replacement with another” as reasons that “made it not to be considered.” Exhibit 1 at 1. On March 8, 2024, claimant’s medical leave ended and claimant stopped working for the employer, as planned.

---

<sup>2</sup> Although the employer contemplated eventually posting the permanent Associate Dean position and desired claimant to apply, the employer had not posted the permanent position as of claimant’s late February 2024 email exchange with the employer’s HR director, and the HR director gave un rebutted testimony that “there wasn’t any date set for the ending of” claimant’s interim Associate Dean position. Exhibit 1 at 2; Audio Record at 35:24.

Thus, as of claimant's March 8, 2024, work separation date, claimant could have continued working for the employer for an additional period of time as interim Associate Dean but chose not to do so. Therefore, the work separation was a voluntary leaving that occurred on March 8, 2024.

**Voluntary Leaving** 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). "[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 left work without good cause. Claimant voluntarily left work because, as a cost-saving measure, the employer demoted claimant from Dean to interim Associate Dean and reduced claimant's pay from \$85,000 per year to \$68,000 per year. Under OAR 471-030-0038(5)(d), a reduction in one's rate of pay can constitute good cause to quit if certain criteria are met. However, OAR 471-030-0038(5)(d) is not applicable in situations in which the employer reduces the rate of pay of an individual because of a demotion. *See* OAR 471-030-0038(5)(d)(A). Because claimant's reduction in pay was the result of a demotion from Dean to interim Associate Dean, OAR 471-030-0038(5)(d) does not apply.

The standard that governs the analysis therefore is whether claimant's reason for leaving work was a reason of such gravity that he had no reasonable alternative but to quit when he did. *See* OAR 471-030-0038(4). It is regrettable that claimant was subjected to a significant pay cut and unilaterally placed in a new job that was of less prestige. However, claimant did not show that the pay cut or loss of prestige presented him with a situation of such gravity that he had no reasonable alternative but to leave work when he did. Claimant did not assert or show that the reduction in pay placed him in financial distress such that his decision to quit and forego the reduced pay of the interim Associate Dean position would benefit him, since quitting work necessarily meant that claimant would receive no pay at all. *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 may have felt insulted by the employer's decision, and had good reason to view his demotion to a less prestigious role as undeserved, since the employer instituted the demotion as a cost-saving measure and not due to claimant's performance. However, as claimant did not face a grave situation, he could have remained in the interim Associate Dean role while seeking other employment under more favorable terms. Claimant therefore did not show that, under the circumstances he faced, no reasonable and prudent person would have continued to work for their employer for an additional period of time.

For the above reasons, claimant voluntarily left work without good cause and is disqualified from receiving unemployment insurance benefits effective March 3, 2024.

**DECISION:** Order No. 24-UI-258439 is affirmed.

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

**DATE of Service: August 9, 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.

**Please help us improve our service by completing an online customer service survey.** To complete the survey, please go to <https://www.surveygizmo.com/s3/5552642/EAB-Customer-Service-Survey>. You can access the survey using a computer, tablet, or smartphone. If you are unable to complete the survey online and need a paper copy of the survey, please contact our office.



# 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)

The Oregon Employment Department is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Language assistance is available to persons with limited English proficiency at no cost.

El Departamento de Empleo de Oregon es un programa que respeta la igualdad de oportunidades. Disponemos de servicios o ayudas auxiliares, formatos alternos y asistencia de idiomas para personas con discapacidades o conocimiento limitado del inglés, a pedido y sin costo.