

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0576**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On May 15, 2024, 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 April 7, 2024 (decision # L0004087922). Claimant filed a timely request for hearing. On July 18, 2024, ALJ Christon conducted a hearing, and on July 19, 2024, issued Order No. 24-UI-259730, modifying decision # L0004087922 by concluding that claimant voluntarily quit work without good cause, and therefore was disqualified from receiving benefits effective February 25, 2024.<sup>1</sup> On August 6, 2024, claimant filed an application for review with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** Claimant submitted written arguments on August 6, 2024, and August 16, 2024. EAB did not consider claimant's August 6, 2024, written argument when reaching this decision because he did not include a statement declaring that he provided a copy of his argument to the opposing party or parties as required by OAR 471-041-0080(2)(a) (May 13, 2019). Additionally, both arguments contained information that was not part of the hearing record, and did not show that factors or circumstances beyond claimant's reasonable control prevented him from offering the information during the hearing as required by OAR 471-041-0090 (May 13, 2019). EAB considered only information received into evidence at the hearing when reaching this decision. *See* ORS 657.275(2). EAB considered claimant's August 16, 2024, argument to the extent it was based on the record.

In his August 16, 2024, written argument, claimant cited two legal authorities which he offered as support for his position that he should not be disqualified from receiving benefits: *Young v. Employment Department*, 170 Or App 752, 13 P3d 1027 (2000) and ORS 657.176(9). Claimant's August 16, 2024, Written Argument at 1. Claimant's reliance on both of these authorities is misplaced.

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<sup>1</sup> Although Order No. 24-UI-259730 stated that it affirmed decision # L0004087922, it modified that decision by changing the effective date of the disqualification from April 7, 2024 to February 25, 2024. Order No. 24-UI-259730 at 3.

As to *Young v. Employment Dep't.*, claimant asserted that the holding in that case “recognizes that starting work, even with contingencies, establishes a definite offer and good cause for leaving prior employment.” Claimant’s August 16, 2024, Written Argument at 1. In fact, that case says no such thing. *Young* involved a claimant who quit work while on medical leave, electing to settle her claims against the employer rather than wait until she healed from her injuries and then return to work. The outcome in that case turned on the determination that claimant quit work without good cause because she had reasonable alternatives to quitting. That determination, in turn, was based on the requirements under OAR 471-030-0038(4) (September 22, 2020), that for a claimant to have quit with good cause, they must show that they faced a situation of such gravity that they had no reasonable alternative but to quit.

As addressed in detail below, claimant quit work to accept an offer of other work. Whether quitting for a such a reason constitutes good cause is covered by OAR 471-030-0038(5)(a), rather than OAR 471-030-0038(4). Therefore, it is not necessary to determine whether claimant faced a grave reason for quitting, or sought reasonable alternatives to quitting, and the broader analysis in *Young* is not applicable to claimant’s circumstances.

Regarding claimant’s citation to ORS 657.176(9), claimant may have erred in citing that provision of the statute. Claimant cited that provision of the statute as imposing a “15-Day Rule.” Claimant’s August 16, 2024, Written Argument at 1. However, ORS 657.176(9) addresses “disqualifying acts”—i.e., work separations that result from violations of an employer’s drug, alcohol, and cannabis policy. Although the record shows that claimant was required to pass a drug test to start the new job, no other details of claimant’s work separation appear to relate in any way to any purported violations of a drug, alcohol, and cannabis policy. Therefore, and in light of claimant’s mention of a “15-Day Rule” and the specific facts in this case, it appears that claimant intended instead to cite to ORS 657.176(8), which governs discharges, not for misconduct, within 15 days of a planned quit not for good cause.

ORS 657.176(8) states, “For purposes of applying subsection (2) of this section, when an individual has notified an employer that the individual will leave work on a specific date and it is determined that: (a) The voluntary leaving would be for reasons that do not constitute good cause; (b) The employer discharged the individual, but not for misconduct connected with work, prior to the date of the planned voluntary leaving; and (c) The actual discharge occurred no more than 15 days prior to the planned voluntary leaving, then the separation from work shall be adjudicated as if the discharge had not occurred and the planned voluntary leaving had occurred. However, the individual shall be eligible for benefits for the period including the week in which the actual discharge occurred through the week prior to the week of the planned voluntary leaving date.”

In short, ORS 657.176(8) applies to circumstances where an individual has planned to quit working for a particular employer for reasons which do not constitute good cause, but instead is discharged *by the same employer*, for reasons that do not constitute misconduct, 15 days or less prior to the date on which the individual had planned to quit working for that employer. Thus, ORS 657.176(8) (and related provisions under ORS 657.176(6) and (7)) apply where a work separation is planned with a single employer, but an intervening cause results in an earlier work separation *with the same employer*. Here, claimant quit working for the employer in this case, began working for another employer less than 15 days later, and then was ultimately discharged by the latter employer. Regardless of why the latter

employer discharged claimant,<sup>2</sup> ORS 657.176(8) does not apply in this case because claimant was not discharged by the employer *in this case* after having notified the same employer that he planned to voluntarily quit.

**FINDINGS OF FACT:** (1) Madden Industrial Craftsmen, Inc. employed claimant from November 2023 through February 29, 2024. For the duration of his employment, claimant worked on assignment as a maintenance technician for one of the employer’s clients.

(2) The employer paid claimant \$30.02 per hour for full time work as a maintenance technician.

(3) On February 29, 2024, claimant received an offer of work from another company. The offer was for work as a millwright apprentice, to start on March 11, 2024, and paid \$42 per hour for full-time work. The offer was contingent upon claimant passing an employment verification, a drug screen, and a background check. Claimant expected the new position to last indefinitely, as he intended to stay with the new employer for approximately four to five years until he could earn his journeyman card.

(4) Claimant accepted the offer and, on February 29, 2024, voluntarily quit work. Although he did not expect to begin the new job until March 11, 2024, claimant felt that he did not need to continue working for the employer until that date because he had secured a better job and was confident that he would clear the contingencies necessary to begin the new job.

(5) Claimant cleared the contingencies necessary to begin the new job during the week of March 3, 2024, through March 9, 2024. On March 11, 2024, claimant began the millwright apprentice position as planned. Claimant worked for the new employer for approximately a week, and then was discharged because that employer felt that claimant did not fit their culture.

**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). “[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.

A claimant who leaves work to accept an offer of other work “has left work with good cause only if the offer is definite and the work is to begin in the shortest length of time as can be deemed reasonable

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<sup>2</sup> The documents enclosed with claimant’s August 16, 2024 written argument included another administrative decision issued by the Department, relating to claimant’s later discharge from the second employer and finding that claimant was discharged from that job, but not for misconduct. As noted above, EAB cannot consider this information because it is not in the hearing record. However, claimant should note that the decision states that while the Department allowed benefits *for that issue*, they could not pay claimant benefits “because other decision(s) were made denying benefits that are still in effect.” Claimant’s August 16, 2024 Written Argument at 13.

under the individual circumstances. Furthermore, the offered work must reasonably be expected to continue, and must pay [either] an amount equal to or in excess of the weekly benefit amount; or an amount greater than the work left.” OAR 471-030-0038(5)(a).

In pertinent part, the Department does not consider a job offer to be definite “if [it] is contingent upon . . . [such things as] passing a drug test, background check, credit check, and/or an employer receiving a contract.” Oregon Employment Department, UI Benefit Manual §442 (Rev. 04/01/10).

Claimant voluntarily quit work to accept an offer of new work which was set to begin on March 11, 2024. Under OAR 471-030-0038(5)(a), leaving work for such a reason is not considered to be good cause unless the offer of other work meets all of the requirements listed under that portion of the rule. Because the job offer that claimant received did not meet all of those requirements, he quit without good cause.

The employer paid claimant \$30.02 per hour, whereas the offer that claimant received was to pay \$42 per hour. Both positions were full time. Because the offer of other work paid more than what the employer paid claimant, that provision of the rule is satisfied. Likewise, claimant indicated at hearing that he expected to work in the new position for several years, and nothing in the record otherwise suggests that the position was intended as limited in duration. Therefore, the job was also reasonably expected to continue.

However, the offer of work was contingent upon claimant’s passing an employment verification, a drug screen, and a background check. Although claimant did ultimately clear these requirements, he did not do so until the week *after* he quit working for the employer. As such, the offer of work was still contingent on those factors at the time that claimant left work, and therefore the offer was not definite.

Finally, the new position was not set to begin in the shortest length of time reasonable under the circumstances. Claimant quit working for the employer on the same day that he received the offer of other work, despite the fact that the new position was not scheduled to begin for more than a week after he quit. Claimant’s only apparent reason for doing so was that he felt he no longer needed to continue working for the employer, as he had secured a better job. Claimant gave no other explanation for why he could not continue to work for the employer for the following week or so after receiving the job offer. While this sentiment may be understandable, it would have been reasonable for claimant to continue working for the employer until the new job started. As such, the new position did not begin in the shortest length of time reasonable under the circumstances.

For the above reasons, claimant voluntarily quit work without good cause, and is disqualified from receiving benefits effective February 25, 2024.

**DECISION:** Order No. 24-UI-259730 is affirmed.

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

**DATE of Service:** August 20, 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 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  
[www.Oregon.gov/Employ/eab](http://www.Oregon.gov/Employ/eab)

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