

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0618**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On May 7, 2024, 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 March 24, 2024 (decision # L0003983718). Claimant filed a timely request for hearing. On August 12, 2024, ALJ Allen conducted a hearing, and on August 13, 2024, issued Order No. 24-UI-262394, affirming decision # L0003983718. On August 24, 2024, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Northwest Farm Credit Services employed claimant as a relationship manager and branch manager, from June 2023 until March 25, 2024.

(2) Claimant had a herniated disc and fibromyalgia, which caused her chronic back pain. Stress worsened claimant's conditions and could cause her to develop muscle spasms that interfered with her ability to walk. During her time working for the employer, claimant's back pain caused her to miss some work.

(3) When claimant began working for the employer, the employer assigned an employee to train claimant. Claimant viewed the trainer as unfairly critical, and as trying to "sabotage" claimant. Audio Record at 23:55. Working with the trainer was unpleasant for claimant. Claimant asked her supervisor to address the trainer's behavior. The supervisor spoke with the trainer, which claimant found had the unintended result of worsening the trainer's criticism. On January 1, 2024, the trainer retired and therefore stopped working with claimant.

(4) After the trainer retired, claimant developed a tense relationship with another employee, a financial consultant in the office. Claimant felt that the employee, who was not in claimant's chain of command, treated her in a manner that undermined her to her supervisor. At times, claimant would ask the employee a question about an office procedure and discovered that the employee would mention to her own supervisor that claimant had asked the question, which led to claimant's supervisor eventually learning that claimant had asked the question. In this way, claimant regarded the employee's conduct as

“misrepresenting [her] questions as a lack of competency.” Audio Record at 26:57. The employee also would question claimant in front of customers and, when claimant was on the phone, could be heard in the background questioning whether claimant’s statements to customers were accurate. The employee also had unfairly accused claimant of “trying to get credit” for a business that claimant and her husband owned by offering snacks at an event put on by a community organization in which both the employer and claimant’s business were members, but at which event claimant appeared as a representative of the employer and offered the snacks as compliments of the employer. Audio Record at 34:13.

(5) On some occasions, after learning that claimant had asked a question of the other employee, claimant’s supervisor called claimant and asked why claimant did not know the office procedure in question. In these conversations, claimant explained that she did not “feel like [she] got the training . . . that was involved.” Audio Record at 26:59. Claimant also struggled with using the employer’s office system for processing loans, finding it to be the “hardest part” of the job. Audio Record at 30:00. Nevertheless, claimant had bi-weekly conversations with her supervisor in which no issues were raised about her performance, and claimant “thought [she] was doing [an] okay job” in terms of performance. Audio Record at 30:40. Claimant’s supervisor also called claimant shortly after the community event, and claimant explained that she had appeared at the event as a representative of the employer, offered the snacks as compliments of the employer, and simply owned a business with her husband that happened to also be a member of the organization.

(6) The behavior of the employee with whom claimant had a tense relationship caused her stress that worsened her herniated disc and fibromyalgia conditions. By March 2024, claimant “was feeling sick all the time.” Audio Record at 38:51.

(7) On March 25, 2024, claimant’s stress had worsened her herniated disc and fibromyalgia conditions and induced excruciating back pain. On that day, claimant quit working for the employer because of her back pain worsened by stress caused by her tense relationship with the employee. Before quitting, claimant did not ask the employer to address the specific aspects of the employee’s behavior that caused claimant stress.

(8) Claimant did not pursue taking a medical leave of absence before she quit. She did not do so because she assumed, without asking the employer, that she would not be eligible for a leave of absence because she had worked for the employer less than a year. Claimant also believed that if she took a leave of absence, the tense relationship with the employee that caused her stress and worsened her conditions would continue when she returned to work.

**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 standard is objective. *McDowell v. Employment Department*, 348 Or 605, 612, 236 P3d 722 (2010). Claimant had a herniated disc and fibromyalgia, a permanent or long-term “physical or mental

impairment” as defined at 29 CFR §1630.2(h). A claimant with an impairment who quits work must show that no reasonable and prudent person with the characteristics and qualities of an individual with such an impairment would have continued to work for their employer for an additional period of time.

Claimant did not meet her burden to show that she left work with good cause. Claimant quit working for the employer because of her back pain worsened by stress caused by her tense relationship with another employee. While claimant’s back pain may have presented her with a grave situation, claimant did not seek the reasonable alternatives of requesting that the employer address the other employee’s conduct that claimant regarded as having the effect of undermining her and causing her stress. Claimant also did not pursue the reasonable alternative of taking a medical leave of absence.

As to the employee’s conduct, the weight of the evidence shows that had claimant raised her specific complaints about the employee with the employer, the employer would have addressed her concerns and claimant’s relationship with the employee likely would have improved. Claimant’s supervisor had demonstrated engagement with claimant given that they met on a bi-weekly basis, and that the supervisor had previously spoken to claimant’s trainer when claimant had asked the supervisor to address the trainer’s behavior. Had claimant raised her specific complaints about the employee with the employer, the employer likely would have counseled the employee to not frame claimant’s asking of questions as meaning that claimant lacked competency, to stop second-guessing claimant in the presence of customers or when the employee could be heard in the background of phone calls, and to refrain from concluding that claimant was acting inappropriately when claimant was representing the employer before a community organization of which claimant’s business also happened to be a member. With these aspects of the employee’s behavior addressed, claimant would have been relieved of the stress that worsened her conditions, and may have been free from the excruciating back pain that caused her to resign.

Although in the context of the trainer, the supervisor’s efforts had the unintended consequence of worsening the trainer’s criticism of claimant, it does not follow that the result would be the same with the employee. This is the case because the employee was outside of claimant’s chain of command and was not in a training relationship with claimant. Therefore, the record does not show that had claimant raised her specific complaints about the employee with the employer, doing so would have been futile.<sup>1</sup>

With respect to a medical leave of absence, claimant would have benefited by taking such a leave because it would have allowed claimant to recover from her back pain. Also, during the pendency of the leave, claimant would have been free from the stress caused by the employee, which had worsened claimant’s conditions.

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<sup>1</sup> Note, further, that claimant testified that a couple of meetings occurred between her supervisor and the employee’s supervisor for the purpose of assigning tasks between claimant and the employee or “trying to figure out who was doing what.” Audio Record at 37:35. While these meetings did not result in the employee altering the aspects of her behavior that bothered claimant, that does not prove that it would have been a futile effort for claimant to raise her specific complaints about the employee with the employer. This is so because the aspects of the employee’s behavior that bothered claimant were that the employee apparently would mischaracterize questions claimant asked as meaning that claimant lacked competency, that the employee would question claimant in front of customers, and that the employee misunderstood claimant to be trying to promote her own business while representing the employer at the community event. Because the meetings between the supervisors to assign tasks did not address any of these specific points, the fact that the employee’s behavior did not change as to the aspects of the employee’s behavior that bothered claimant after the meetings occurred does not show that it would have been futile for claimant to have raised her specific complaints about the employee with the employer.

At hearing, claimant explained that she did not pursue taking a medical leave of absence because, first, she thought that she would not be eligible for one because she had worked for the employer less than a year. Audio Record at 36:45. Second, claimant thought that taking a leave “wasn’t going to change any of the environment that was there,” *i.e.*, claimant thought that the stress caused by the employee would continue when claimant returned to work. Audio Record at 36:12. However, claimant stated that she did not check with the employer but merely assumed a leave would not be available and so did not prove, on that basis, that it would have been futile to seek taking a medical leave of absence. The record offers scant detail about the employer’s medical leave of absence policy, such as whether it was paid,<sup>2</sup> but the record supports the inference that the employer offered medical leave since claimant considered seeking one but opted not to for the reasons listed above. Claimant testified to having missed work with the employer due to her conditions, and such absences presumably were covered by accrued paid sick leave, paid leave time that may have continued to be available to claimant as of the date she resigned on March 25, 2024. Audio Record at 22:21.

As to the point that claimant believed that taking a leave of absence would have been futile because the stress caused by the employee would continue when claimant returned to work, the record suggests that the aspects of the employee’s behavior that bothered claimant, such as that the employee second-guessed claimant in front of customers, likely was motivated by the employee’s perception that claimant struggled with certain aspects of her job. Claimant testified to having difficulty using the employer’s office system to process loans and that she believed she had been inadequately trained to some extent. Audio Record at 26:59, 30:00. However, there was reason to believe that claimant was improving in these areas because claimant had bi-weekly conversations with her supervisor in which no issues were raised about her performance, and claimant “thought [she] was doing [an] okay job” in terms of performance. Audio Record at 30:40. The record therefore shows that claimant’s job performance was improving, which would likely have led to reduced conflict and stress with the employee. As such, claimant failed to establish that it would have been futile to take a medical leave of absence because she failed to show that if she had taken one, the stress caused by the employee would have continued when claimant returned to work.

For these reasons, claimant voluntarily left work without good cause and is disqualified from receiving unemployment insurance benefits effective March 24, 2024.

**DECISION:** Order No. 24-UI-262394 is affirmed.

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

**DATE of Service:** September 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

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<sup>2</sup> *See Sothras v. Employment Division*, 48 Or App 69, 616 P2d 524 (1980) (court held that “a protracted, unpaid leave of absence is not a ‘reasonable alternative’ to leaving work and being unemployed; indeed it is not an alternative at all”).

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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