

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0633**

*Reversed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On July 23, 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 June 30, 2024, through June 28, 2025 (decision # L0005297020). Claimant filed a timely request for hearing. On August 20, 2024, ALJ Christon conducted a hearing and issued Order No. 24-UI-263161, modifying decision # L0005297020 by concluding that claimant quit work without good cause and was disqualified from receiving benefits effective June 30, 2024.<sup>1</sup> On September 4, 2024, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Classroom Law Project employed claimant, most recently as their director of development and communications, from late 2015 until June 30, 2024. Claimant started in the director role in 2016. In that role, claimant reported to the employer's executive director.

(2) In or around late 2023, the employer hired a new executive director. Claimant had difficulties working with the new executive director, due largely to the latter's work habits and manner of interaction with claimant. Examples of claimant's concerns included the executive director repeatedly asking claimant questions that claimant had already answered or asking claimant for information claimant had already provided; suggesting that claimant was "falling short in some unspecific way" in his job duties but refusing to clarify how claimant should improve; requiring claimant to re-do work that claimant had already completed according to the terms approved by the executive director; and stating in a meeting with others, regarding a revenue-tracking spreadsheet, "We're tired of working with all your broken tools." Exhibit 1 at 8; Transcript at 37.

<sup>1</sup> The order under review modified decision # L0005297020 because the latter apparently erred in concluding that claimant was disqualified through June 28, 2025, contravening the requirement under ORS 657.176 that such disqualifications continue until the individual has earned, subsequent to the week in which the disqualification began, four times their weekly benefit amount in subject employment. Order No. 24-UI-263161 at 5; *see also* ORS 657.176(2).

(3) Claimant attempted to address his concerns with the executive director on several occasions. Although the executive director would typically change his behavior for a brief period of time, he would eventually revert to the same behavior with which claimant took issue. Claimant also sought intervention from the employer's board of directors. However, the board of directors told claimant that they felt the matter did not rise to the level of requiring their intervention, and advised claimant to address his concerns with the executive director.

(4) As a result of his difficulties, claimant experienced significant work-related anxiety. This anxiety caused claimant to suffer from symptoms such as shortness of breath, insomnia, and vomiting. Claimant sought advice from his primary care physician, who diagnosed claimant with generalized anxiety disorder and referred claimant to speak with a therapist. Claimant's physician and therapist both advised claimant to "leave the workplace" to determine if the stress from working with the executive director was the cause of claimant's anxiety and related symptoms. Transcript at 10.

(5) In early May 2024, claimant took a medical leave of absence from work because of the anxiety he had been experiencing. While claimant was on leave and away from work, his anxiety and related symptoms largely resolved. The leave of absence lasted for most of the month of May 2024.

(6) While he was still on medical leave, claimant again contacted the board of directors to request that they help address the issues claimant had with the executive director. The board of directors again declined to intervene. As a result, claimant decided to resign due to the health effects he had been experiencing from working with the executive director. On May 28, 2024, claimant and the employer executed a separation agreement. The agreement stipulated, in relevant part, that claimant would continue to work for the employer to complete specific projects through June 30, 2024, and that he would separate from employment thereafter. The agreement also stipulated that claimant would complete this work remotely. Claimant completed the projects per the terms of the agreement and, on June 30, 2024, quit work.

(7) Prior to quitting, claimant did not file a complaint with the Bureau of Labor and Industries (BOLI) regarding the executive director's behavior.

**CONCLUSIONS AND REASONS:** Claimant voluntarily quit work with 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 generalized anxiety disorder, 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 quit work due to anxiety he experienced as a result of a difficult working relationship with his supervisor, the employer's executive director. This anxiety caused claimant to suffer from symptoms such as shortness of breath, insomnia, and vomiting. Based on claimant's description of the executive director's conduct, the conduct itself did not objectively rise to the level of a grave situation. However, the *effects* that this conduct had on claimant's health did constitute a grave situation because, absent a reasonable alternative, a reasonable and prudent person with generalized anxiety disorder would quit work when interactions with their immediate supervisor caused the types of symptoms that claimant had been experiencing.

Despite this, the order under review concluded that claimant's circumstances did not amount to good cause for quitting because while claimant had offered evidence regarding the symptoms he had been experiencing prior to taking his leave of absence in May 2024, he "provided no evidence of an exacerbation of his impairment after returning from leave and before leaving employment on June 30, 2024," suggesting that claimant's circumstances were no longer grave by the time he left work. Order No. 24-UI-263161 at 5. The order under review also concluded that claimant did not seek reasonable alternatives to quitting such as continuing to work for the employer, requesting a "reasonable accommodation based on a disability," or filing a complaint with BOLI to report a "toxic work environment." Order No. 24-UI-263161 at 5. Neither of these conclusions are supported by the record.

As to the suggestion that claimant's circumstances were no longer grave when he returned to work from his leave of absence, the order under review fails to account for the fact that for the final month that claimant was working for the employer, following the execution of the separation agreement, claimant was working remotely. This fact supports the reasonable inference that claimant's work for his final month involved considerably less contact with the executive director than he had otherwise had in the preceding year. Given that his interactions with the executive director were the cause of his anxiety and related symptoms, and the fact that claimant's time away from work largely alleviated these issues, it would stand to reason that claimant's continued distance from the executive director was the reason that his symptoms apparently did not return during his last month of work. Likewise, it is more likely than not that claimant's knowledge of the impending work separation contributed to his apparent relief from the symptoms from which he had been suffering.

There is, however, no indication in the record that the source of claimant's anxiety and related conditions—the executive director's conduct—had changed or abated during claimant's leave of absence or final month of remote work. Therefore, it can be reasonably inferred that, had claimant returned to his typical duties after the leave of absence, the conduct with which he took issue would have caused him to again experience the anxiety and related symptoms which led him to quit. As such, the gravity of claimant's circumstances more likely than not persisted through the day on which he quit work.

The record also fails to show that claimant had reasonable alternatives to quitting. First, despite the suggestion in the order under review that claimant could have continued working for the employer, the Court of Appeals has held that this is not a reasonable alternative. *See Hill v. Employment Dep't.*, 238 Or App 330, 243 P3d 78 (2010) (continuing to work until claimant has found other work is not a reasonable alternative to quitting work); *see accord Warkentin v. Employment Dep't.*, 245 Or App 128, 261 P3d 72 (2011); *Campbell v. Employment Dep't.*, 245 Or App 573, 263 P3d 1122 (2011); *Strutz v. Employment*

*Dep't.*, 247 Or App 439, 270 P3d 357 (2011); *Campbell v. Employment Dep't.*, 256 Or App 682, 303 P3d 957 (2013).

Next, the record does not show that requesting a disability accommodation would have been a reasonable alternative to quitting. Claimant's "disability"—his anxiety and related symptoms—were the direct results of claimant's difficulty in working with the executive director. Claimant attempted on several occasions to address this issue with both the executive director himself and the board of directors, but to no avail. It is not clear what "accommodations" the employer could have offered claimant, other than disciplining the executive director or removing him from his position, which would have made a meaningful difference in claimant's ability to perform his work without a recurrence of his medical issues. Because the board of directors clearly expressed their refusal to do so, making such a request would have been futile, and therefore was not a reasonable alternative to quitting.

Finally, the record does not show that filing a complaint with BOLI would have been a reasonable alternative to quitting. Even though claimant's circumstances were grave because of the symptoms he had been experiencing, the record does not show by a preponderance of the evidence that the executive director's conduct with which claimant took issue rose to the level of illegal conduct (such as discrimination on the basis of membership in a protected class, or a violation of safety rules) that would confer jurisdiction on BOLI. Therefore, filing such a complaint would, more likely than not, have been futile, and not a reasonable alternative to quitting.

Because claimant voluntarily quit work for a reason of such gravity that he had no reasonable alternative but to quit, claimant voluntarily quit work with good cause, and is therefore not disqualified from receiving unemployment insurance benefits based on the work separation.

**DECISION:** Order No. 24-UI-263161 is set aside, as outlined above.

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

**DATE of Service:** September 26, 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.

**NOTE:** This decision reverses an order that denied benefits. Please note that payment of benefits, if any are owed, may take approximately a week for the Department to complete.

**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  
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