

EMPLOYMENT APPEALS BOARD DECISION
2024-EAB-0772

Reversed
No Disqualification

PROCEDURAL HISTORY: On September 20, 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 July 21, 2024 (decision # L0006273947).¹ Claimant filed a timely request for hearing. On October 28, 2024, ALJ Micheletti conducted a hearing, and on October 30, 2024, issued Order No. 24-UI-271307, affirming decision # L0006273947. On November 1, 2024, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant filed written arguments on November 1, 3, 4, and 5, 2024, in the form of emails sent to EAB. EAB did not consider claimant's written arguments when reaching this decision because she did not include, with any of her arguments, a statement declaring that she provided a copy of the argument to the opposing party as required by OAR 471-041-0080(2)(a) (May 13, 2019).

FINDINGS OF FACT: (1) Taylor Metal, Inc. employed claimant as a team lead in the employer's framing department from May 3, 2022, through July 26, 2024. The employer operated a roofing and siding company. The employer paid claimant \$20 per hour for full-time work.

(2) Claimant had a history of alcohol dependence, depression, and anxiety. At the time of her work separation, claimant had been sober for approximately seven years.

(3) For approximately eleven years leading up to her work separation, claimant had been living with her then-partner and his children. The relationship was often tumultuous and caused claimant a significant amount of stress. In or around 2021, claimant sought counseling for her mental health issues relating to

¹ Decision # L0006273947 stated that claimant was denied benefits from July 21, 2024 to July 19, 2025. However, decision # L0006273947 should have stated that claimant was disqualified from receiving benefits beginning Sunday, July 21, 2024 and until she earned four times her weekly benefit amount. *See* ORS 657.176.

her relationship with her partner, which helped claimant for a time. Claimant, her partner, and his children lived in Salem, Oregon. Claimant had no other family in Oregon.

(4) In or around June 2024, claimant's relationship with her partner worsened, with "constant arguing [and] fighting" with her partner. Audio Record at 10:35. As a result of this, claimant was frequently angry, and was concerned that she might relapse into alcohol abuse. Claimant was also concerned that she might become violent with her partner if she was unable to control her anger.

(5) In or around early July 2024, claimant, realizing that her relationship was no longer tenable, left her partner. Claimant subsequently became homeless, as she could not afford to pay for a home by herself, and temporarily moved in with a friend. To address her housing issue more permanently, claimant decided to move in with her daughter, who lived in Hawaii, and help her daughter raise her grandchild.

(6) On July 9, 2024, claimant gave the employer notice that she intended to quit work on July 26, 2024. On July 26, 2024, claimant quit work to move in with her daughter and granddaughter in Hawaii. On July 27, 2024, claimant moved to Hawaii.

(7) The employer did not have any operations in Hawaii.

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 depression, and anxiety, and alcohol dependency, which constitute permanent or long-term "physical or mental impairments" 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 voluntarily quit work to move in with her daughter and grandchild in Hawaii. This decision was preceded by claimant's decision to end her long-term partnership and leave their shared home, effectively leaving claimant homeless. The order under review concluded that claimant's circumstances were not grave, as "[i]t is unclear in the record why claimant's separation from her partner required her to relocate and end her employment." Order No. 24-UI-271307 at 2. The record does not support this conclusion.

The record shows that claimant left her partner, and their shared home, due to concerns that staying could have serious negative repercussions, including a relapse into substance abuse and the possibility of claimant becoming violent with her partner if she was unable to manage her anger. However, because claimant was unable to afford housing on her own, she became homeless after leaving her partner, and temporarily moved in with a friend. Claimant's description of herself as homeless while staying with a

friend suggests that the arrangement was not tenable long-term, and it is therefore reasonable to infer that claimant would eventually have to find another living situation. Thus, because claimant could not reasonably stay with her partner and risk relapse or the situation escalating into violence, was unable to afford housing on her own, and was faced with homelessness if she continued to live in Oregon and work for the employer, claimant's situation was grave.

After she left her partner, the only apparent long-term, safe housing option for claimant was to move to Hawaii with her daughter and grandchild. The employer did not have operations in Hawaii, and claimant therefore could not have continued working for the employer after moving to Hawaii. Under such circumstances, a reasonable and prudent person, who had the long-term mental health issues from which claimant suffered, would not have continued working for the employer for an additional period of time. Therefore, claimant had no reasonable alternative but to quit working for the employer and move to Hawaii to live with her family.

For the above reasons, claimant voluntarily quit work with good cause, and is not disqualified from receiving unemployment insurance benefits based on the work separation.

DECISION: Order No. 24-UI-271307 is set aside, as outlined above.

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

DATE of Service: December 4, 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 stated above**. See ORS 657.282. For forms and information, visit <https://www.courts.oregon.gov/courts/appellate/forms/Pages/appeal.aspx> and choose the appropriate form under "File a Petition for Judicial Review." You may also contact the Court of Appeals by telephone at (503) 986-5555, by fax at (503) 986-5560, or by mail at 1163 State Street, Salem, Oregon 97301.

NOTE: This decision reverses the ALJ's order denying claimant benefits. Please note that in most cases, payment of benefits owed will take about 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>. If you are unable to complete the survey online and wish to have 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.

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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.