

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0778**

*Affirmed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On July 16, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged by the employer for misconduct and disqualified from receiving benefits effective June 9, 2024 (decision # L0005272435).<sup>1</sup> Claimant filed a timely request for hearing. On September 26 and October 17, 2024, ALJ Christon conducted a hearing, and on October 22, 2024, issued Order No. 24-UI-270297, reversing decision # L0005272435 by concluding that claimant was discharged, but not for misconduct, and was not disqualified from receiving benefits because of the work separation. On November 5, 2024, the employer filed an application for review with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** EAB considered the written arguments from claimant and the employer in reaching this decision.

**FINDINGS OF FACT:** (1) Faith Baptist Church employed claimant as a youth pastor from July 1, 2023, until June 13, 2024.

(2) In late April 2024, claimant applied to be considered for a lead pastor position with the employer. On May 7, 2024, the employer stated in a letter to claimant that he did not meet their qualifications and his application would not be considered further. Claimant did not believe that the employer followed their written processes for considering the application and was dissatisfied with the outcome.

(3) In response, claimant advised the employer that he intended to seek a lead pastor position with other employers, but would continue working until he sold his house and secured another position. The employer agreed with these plans but directed claimant to draft a letter to the congregation, subject to the employer's approval, to explain his employment status and his putting the house up for sale. The

---

<sup>1</sup> Decision # L0005272435 stated that claimant was denied benefits from June 9, 2024 to June 14, 2025. However, decision # L0005272435 should have stated that claimant was disqualified from receiving benefits beginning Sunday, June 9, 2024 and until he earned four times his weekly benefit amount. *See* ORS 657.176.

employer expected at that time that claimant would not tell members of the church congregation that he had applied for the lead pastor position or that his application had been rejected, to speak negatively of the employer or their leadership, or disclose why he had put his house up for sale. Claimant understood these expectations.

(4) On May 24, 2024, claimant submitted a draft letter for the employer’s review. The employer objected to the part of it that stated: “[The church elders] have encouraged me to consider resignation for most of my months of employment. I have not agreed with how church–family conflict has been handled. Additionally, my dreams died with [another employee’s] departure. My job turned into a coordinator of events—something I did not anticipate.” Exhibit 5 at 11.

(5) On May 30, 2024, claimant sent a message to one or more members of the hiring committee for the lead pastor position. The messages expressed disagreement with their reason for not considering claimant’s application further and questioned whether the candidate they ultimately selected would be informed of various points of dissatisfaction claimant had with his employment that he believed would also impact the new hire. Claimant understood that he was “not allowed . . . to discuss any church business with elders” and therefore thought his complaints were properly addressed by providing them to the hiring committee. Exhibit 5 at 15. On June 1, 2024, claimant apologized to the employer’s leaders for having brought his concerns to the hiring committee, and stated that he would commit to the plan for the joint letter to the congregation and would “not divulge any negative experiences” he had as a church member or employee. Exhibit 5 at 15.

(6) On June 4, 2024, the employer sent the letter they edited and approved to the congregation announcing claimant’s intent to seek work elsewhere. The employer expected that claimant would follow the “script” of this letter when answering questions from the congregation or others to conceal the details motivating claimant’s departure, and to not portray the employer or their leaders in a way that could be perceived as negative. Exhibit 5 at 26. Claimant felt that this script was a “lie” because it implied that he wanted to leave the employer when, in fact, he had wanted to stay and felt forced out by the employer and their decisions. Exhibit 1 at 3.

(7) Later on June 4, 2024, claimant and a member of church management attended a meeting with members of the congregation at which claimant’s departure was discussed. Claimant said or implied that he had wanted to continue working for the employer and that the church’s leadership did not make him feel “safe.” Exhibit 5 at 28. The employer’s leaders demanded that claimant apologize to them and commit to following the “script” in the future. Claimant apologized and agreed to follow the “script.” In the following days, claimant retracted this commitment because he felt it required him to lie, then recommitted to it, and vacillated between committing and retracting the commitment.

(8) By June 9, 2024, the employer had required claimant to “reaffirm [his] promise that [he] will follow the script, that [he] will not say anything more otherwise or imply by expression or nonverbal communication, to anyone, and that [he] will only be positive about [his] move and about the leadership here at [the employer.]” Exhibit 5 at 23. The employer told claimant on June 9, 2024, that he was suspended from work immediately and until he made the required commitment “unconditionally,” in writing, and met with the employer’s leaders “to confess and repent of [his] disobedience and demonstrate [his] sincerity to the reasonable satisfaction of the [leaders].” Exhibit 5 at 30. Claimant was also told that the congregation would be informed of his suspension if he had not met these conditions

by the following morning. The following morning, claimant replied that he needed additional time to consider, and the employer gave him a week to do so. Later that day, claimant agreed to the terms and the suspension was ended. The employer did not send an email to the congregation stating that claimant had been suspended, though word of the suspension had spread, and claimant requested that the congregation be informed of the details of the suspension.

(9) On June 11, 2024, claimant's supervisor sent an email to claimant and the employer's leaders stating, in part, that congregants should be told that claimant's leaving "is [claimant's] choice. He was/is not fired or pushed out of his role here at [the employer]," and, "If someone asks if [claimant] was suspended . . . I will tell them that [claimant engaged in various work duties on Sunday and Monday]. This doesn't sound like much of a suspension to me." The email described this answer as "evasive . . . [b]ut for the good of the church." Exhibit 5 at 45.

(10) On June 12, 2024, claimant emailed the employer's leaders that he was "unable to deceive and lie to people" and "unable to stick to the script when people ask more." Exhibit 5 at 48. Claimant cited his religious belief that he should not participate in lies or deception. The employer responded by scheduling a meeting with claimant for the following day.

(11) During the June 13, 2024, meeting, claimant told the employer's leaders that he "would like to have the freedom to answer people honestly." October 17, 2024, Transcript at 36. The employer formed the opinion that "if the question was raised [by any of 10-20 unnamed confidants], [claimant] would feel free to tell them that the elders are ungodly, have unconfessed sin, [and that one specific leader] is 'unsafe,' 'quarrelsome,' and that he has a negative public persona." Exhibit 5 at 52. Claimant did not disparage the employer's leadership at the meeting or express an intention to disparage them to others. Claimant also did not intend to volunteer unsolicited information about his departure or negative experiences with the employer to others. However, claimant intended to respond in a way he believed was truthful, but which would conflict with the "script," to certain congregants if they inquired about these matters. Based on claimant's continued unwillingness to commit to communicating only in accordance with the "script," the employer discharged claimant with immediate effect.

**CONCLUSIONS AND REASONS:** The employer failed to establish that claimant's discharge was for misconduct.

ORS 657.176(2)(a) requires a disqualification from unemployment insurance benefits if the employer discharged claimant for misconduct connected with work. "As used in ORS 657.176(2)(a) . . . a willful or wantonly negligent violation of the standards of behavior which an employer has the right to expect of an employee is misconduct. An act or series of actions that amount to a willful or wantonly negligent disregard of an employer's interest is misconduct." OAR 471-030-0038(3)(a) (September 22, 2020). "[W]antonly negligent' means indifference to the consequences of an act or series of actions, or a failure to act or a series of failures to act, where the individual acting or failing to act is conscious of his or her conduct and knew or should have known that his or her conduct would probably result in a violation of the standards of behavior which an employer has the right to expect of an employee." OAR 471-030-0038(1)(c). In a discharge case, the employer has the burden to establish misconduct by a preponderance of evidence. *Babcock v. Employment Division*, 25 Or App 661, 550 P2d 1233 (1976). A conscious decision not to comply with an unreasonable employer policy is not misconduct. OAR 471-030-0038(1)(d)(C).

The employer discharged claimant because on June 13, 2024, claimant would not agree to say or not say to members of the congregation what the employer desired regarding claimant's plan to separate from employment and his negative experiences with the employer's leaders. The employer expected that claimant would not say negative things to others about the employer or their leaders. The employer also expected that claimant would follow a "script" in responding to congregant inquiries about his planned departure that involved telling them that leaving was claimant's desire and that he had not been forced out, even though claimant told the employer he believed this was not true. To the extent the expectation prohibited claimant from publicly volunteering information regarding his departure, or disparaging the employer or their leaders to others, this was a standard of behavior that an employer has the right to expect of an employee. However, to the extent that the employer expected claimant to tell members of his congregation things he believed were untrue, this was not a standard of behavior that an employer has the right to expect of an employee.

The employer disapproved of claimant complaining to the hiring committee on May 30, 2024, and wavering as to whether he would commit to abiding by the employer's expectations regarding communications from June 1 through 12, 2024. However, the employer's witness testified, and the record otherwise supports, that it was claimant's alleged insubordination during the June 13, 2024, meeting that caused the employer to discharge claimant. October 17, 2024, Transcript at 26. A discharge analysis focuses on the proximate cause of discharge, which is the incident without which the discharge would not have occurred when it did. *Appeals Board Decision 09-AB-1767*, June 29, 2009. Claimant's actions at this meeting are therefore the subject of the misconduct analysis.

The parties gave differing accounts of the June 13, 2024, meeting. According to the employer's account, claimant stated during the meeting that "if the question was raised [by any of 10-20 unnamed confidants], [claimant] would feel free to tell them that the elders are ungodly, have unconfessed sin, [and that one specific leader] is 'unsafe,' 'quarrelsome,' and that he has a negative public persona." Exhibit 5 at 52. In contrast, claimant denied calling anyone "ungodlike or abusive" or "indicat[ing] that [he was] going to tell other people . . . these things about church leaders." October 17, 2024, Transcript at 36. Claimant further testified that he asked if he could be "free" to respond to questions from "just a certain few among the leaders" about his departure as he saw fit, but the employer denied this request. October 17, 2024, Transcript at 23-24. These differing accounts are no more than equally balanced.<sup>2</sup> Because the burden of persuasion is on the employer, they have failed to meet their burden, and the facts have been found according to claimant's account.

Despite their differing accounts of the meeting, the record shows that claimant refused to commit to following the employer's "script" if asked about his departure by members of the congregation. Claimant's reason for the refusal was that he believed that following the "script" would be tantamount to saying untrue things to his congregation. The employer did not have the right to expect claimant to tell members of his congregation things he believed were untrue. Claimant's refusal to do so therefore did not violate a standard of behavior that an employer has the right to expect of an employee, and did not constitute misconduct pursuant to OAR 471-030-0038(1)(d)(C).

---

<sup>2</sup> The employer argued that their account should be given more weight because their witness also submitted as evidence a written statement typed shortly after the meeting that aligned with his testimony. Employer's Argument at 2; Exhibit 5 at 52. However, claimant's testimony gave no indication that claimant had difficulty recalling the incident, but simply presented an alternate version of what was said during the meeting. Therefore, the two differing accounts are given equal weight.

The employer's expectations that claimant would agree not to volunteer information about his departure or disparage the employer or their leaders to others were reasonable. However, the record fails to show that claimant explicitly refused to comply with those expectations. Although claimant did not explicitly agree not to volunteer information about his departure to a few members of his congregation if they asked about it, the employer did not give the option of agreeing to comply with that expectation, but not the employer's unreasonable expectation that he tell members of his congregation things he believed were untrue. The record fails to show that it would have satisfied the employer and prevented claimant's discharge if he nevertheless had explicitly agreed to comply with the employer's reasonable expectations, but not the employer's unreasonable expectations. The employer's expectations therefore were, as a whole, unreasonable, and claimant's failure to explicitly agree to the reasonable portion of the employer's expectations did not constitute misconduct under these circumstances. Given claimant's expressed views toward the employer's expectations as a whole, the employer understandably worried that claimant would violate their expectations in the future. However, under these facts, anticipation that a violation might later occur is insufficient to show that claimant's discharge was for misconduct.

For these reasons, the employer failed to establish that claimant's discharge was for misconduct. Claimant is not disqualified from receiving benefits because of the work separation.

**DECISION:** Order No. 24-UI-270297 is affirmed.

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

**DATE of Service:** December 10, 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.

**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 محكمة 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  
 Email: [appealsboard@employ.oregon.gov](mailto:appealsboard@employ.oregon.gov)  
 Website: [www.Oregon.gov/employ/pages/employment-appeals-board.aspx](http://www.Oregon.gov/employ/pages/employment-appeals-board.aspx)

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.