

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0781**

*Modified*  
*Disqualification*

**PROCEDURAL HISTORY:** On May 21, 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 April 21, 2024 (decision # L0004149006). Claimant filed a timely request for hearing. On October 11, 2024, ALJ Murray conducted a hearing, and on October 16, 2024, issued Order No. 24-UI-269533, affirming decision # L0004149006. On November 5, 2024, claimant filed an application for review with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** Claimant's argument contained information that was not part of the hearing record, and did not show that factors or circumstances beyond claimant's reasonable control prevented her from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB considered only information received into evidence at the hearing when reaching this decision. EAB considered claimant's argument to the extent it was based on the record.

**FINDINGS OF FACT:** (1) Holiday Inn Express Seaside employed claimant as a "night auditor" front desk worker at their hotel in Seaside, Oregon, most recently from April 4, 2023, until April 20, 2024. Transcript at 5.

(2) Claimant worked full-time for the employer, working shifts that went from 11:00 p.m. to 7:00 a.m., with Thursdays and Fridays off. Claimant's duties included ensuring the hotel's accounts were accurate and cleaning and organizing certain areas of the hotel. Claimant also monitored and adjusted the chlorine levels of the hotel's pool and hot tub.

(3) Another front desk worker, J.H., worked shifts from 3:00 p.m. to 11:00 p.m. Because of the timing of the shifts, claimant frequently relieved J.H., with claimant beginning her shifts as J.H.'s shifts ended. An aspect of the 11:00 p.m. shift transition was that J.H. was required to have an employee from the incoming shift sign a "cash drop[.]" Exhibit 1 at 10.

(4) On an occasion in February 2024, the employer's hotel had many guests because of increased bookings due to a local basketball league. This caused cleaning tasks to go unfinished during J.H.'s 3:00 p.m. to 11:00 p.m. shift, and, in turn, meant that claimant had more cleaning to do during her shift. At an 11:00 p.m. shift transition during this time, claimant was annoyed by the extra cleaning and told J.H. that she "didn't appreciate all the extra cleaning [J.H. had] been leaving for [her] lately." Exhibit 1 at 10. J.H. shrugged, said "ok," and left the hotel. Exhibit 1 at 10.

(5) During some shift transitions in early March 2024, claimant perceived J.H. to be "aggressively following" her and "asserting dominance" when J.H. asked claimant to sign cash drops. Transcript at 8-9.

(6) On March 13, 2024, claimant arrived at work for her shift. When she arrived, J.H. was standing in the doorway of the office talking to a newly hired employee claimant was assigned to train. Claimant tried to enter the office by going around J.H., but bumped into her, causing J.H. to fall forward into the office in a manner claimant believed was exaggerated. Claimant became upset, clocked in, went to the bathroom, and a few minutes later returned to the front desk where J.H. had remained. Claimant asked J.H. why she was still there, to which J.H. responded that it was "none of [claimant's] business." Exhibit 1 at 11. Claimant then stated that she was "not scared of [J.H.]" and challenged J.H. to "meet [her] on the prom[enade] after work" if J.H. "want[ed] to fight[.]" Exhibit 1 at 11. J.H. referenced a brain injury she had sustained and commented that claimant was cruel for suggesting they fight. Claimant responded, "then why are you messing with me?" and went to the bathroom, at which time J.H. left the hotel. Exhibit 1 at 11.

(7) On March 18, 2024, claimant sent an email to the employer describing the issues she had with J.H., including details of the March 13, 2024, incident. On March 19, 2024, the employer issued an action plan to address the difficulties between claimant and J.H. The plan listed the issues between the two as including "physical touch that has been perceived aggressive in nature, verbal arguing, threats, and insults[.]" Exhibit 1 at 12. The plan instructed both claimant and J.H. to cease such conduct and that, "While changing shift [*sic*], passing on information about the shift should be the only conversation that is had. The interaction should be short, polite, and professional." Exhibit 1 at 12.

(8) In the weeks that followed the employer issuing their action plan, claimant felt that J.H. was "baiting" her by failing to complete some cleaning tasks during the 3:00 p.m. to 11:00 p.m. shift and leaving the employer's brooms and mops in disarray. Transcript at 12. Claimant had kept those items organized in a particular way, and felt that J.H. left the brooms and mops disorganized and failed to complete some cleaning tasks "on purpose to try to trigger [claimant] again." Transcript at 12.

(9) During the evenings, front desk staff were required to monitor the chlorination levels of the hotel's pool and hot tub, and add chlorine if necessary. On April 14, 2024, per her usual 10:00 p.m. chlorination level check, J.H. prepared two cups of chlorine treated water, one to be poured into the pool and one into the hot tub, but noticed that the chlorine levels of the pool and hot tub "were pretty good", and so left the cups by the sink in a closet near the pool "ready to be dumped in when the levels got low." Exhibit 1 at 19. At 10:21 p.m. that night, J.H. left a post in the employer's logs with the subject line "For Night Audit – Pool info", in which she explained that she had left out the cups and why she did so. Exhibit 1 at 19.

(10) On April 14, 2024, at some point following the 11:00 p.m. shift transition, claimant entered the closet near the pool. The cups had caused chlorine to circulate in the air, which made claimant cough and gag. Claimant dumped out the cups and aired out the pool area. Claimant believed that J.H. had left out the cups as an “act of revenge,” in which the cups of chlorine treated water were “intentionally left out . . . targeting [claimant].” Transcript at 12.

(11) Claimant’s exposure to the chlorine in the air from the cups resulted in coughing and discomfort, although she did not seek medical attention. The exposure caused claimant to have safety concerns and claimant made note of the incident in the employer’s logs. On April 17, 2024, the employer gave J.H. a corrective action plan, counseling her for “leaving chemicals inappropriately in the maintenance pool room.” Transcript at 17. On that date, the employer also retrained J.H. on chemical safety.

(12) After the April 14, 2024, chlorine incident, claimant worked another shift, then had two days off per her usual schedule. On April 20, 2024, tendered her resignation letter. Claimant resigned on that day due to what she regarded as J.H. having “deliberately exposed [her] to chlorine fumes,” and her view that the “chemical exposure [she] was faced with was mishandled[.]” Transcript at 5; Exhibit 1 at 21.

**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). 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.

The main reason claimant quit working for the employer was due to the April 14, 2024, incident in which claimant was exposed to chlorine. Transcript at 5. Claimant also cited the March 13, 2024, confrontation with J.H. and J.H.’s tendency to leave cleaning tasks unfinished and cleaning implements in disarray, among other things, as contributing to her decision to leave work. Transcript at 7, 12. Claimant did not meet her burden to prove that she left work with good cause as to any of these reasons.

As an initial matter, claimant at hearing characterized J.H.’s conduct in a more severe light than an objective review of the evidence supports. For example, claimant described the April 14, 2024, chlorine incident as “a desperate act of revenge” in which the cups of chlorine treated water were “intentionally left out . . . targeting [claimant].” Transcript at 12, 5. However, evidence in the record offered an explanation for why J.H. left out the cups that was not malicious. In the employer’s logs, J.H. made a post on April 14, 2024, at 10:21 p.m. explaining that she prepared the cups of chlorinated water to be dumped into the pool and hot tub at 10:00 p.m. that night per her usual 10:00 p.m. chlorination level check, but noticed “the levels were pretty good”, so left the cups “ready to be dumped in when the levels got low.” Exhibit 1 at 19. The post was labeled “For Night Audit – Pool info” and so presumably was intended to be seen by claimant at the 11:00 p.m. shift transition. Since J.H. attempted to notify claimant

about the cups of chlorinated water in advance and offered a plausible explanation for why she left them out, the record does not support that J.H. targeted claimant or left the cups out as an act of revenge.

Similarly, claimant asserted that J.H. “kn[ew] how neat” claimant was and, during the period after the employer issued their action plan but before the chlorine incident, J.H. would “bait[]” or “try to trigger” claimant by failing to complete cleaning tasks and by leaving brooms and mops in disarray. Transcript at 12. However, the employer explained that the shift J.H. worked, the 3:00 p.m. to 11:00 p.m. shift, became very busy at times and the fact that cleaning work remained incomplete and left for the next worker to do was not out of the ordinary. Transcript at 17. This explanation is credible, as the 3:00 p.m. to 11:00 p.m. timeframe is logically a period during which many guests would check in and front desk staff would be busy.

As another example, claimant testified that the March 13, 2024, incident was a “staged physical confrontation,” and that J.H. “falsely claimed that [claimant] pushed her.” Transcript at 7, 9. However, in her description of the incident contained in her March 18, 2024, email to the employer, claimant implicitly admitted that she did push J.H., but that the push was not “really hard” and that J.H. had exaggerated its effect. Exhibit 1 at 11. Though the extent of the physical nature of the incident, as described in claimant’s email, was not significant, the encounter was genuinely confrontational and appeared to have been escalated by claimant given that, before the situation resolved, claimant challenged J.H. to “meet [her] on the prom[enade] after work” if J.H. “want[ed] to fight[.]” Exhibit 1 at 11.<sup>1</sup>

Turning to claimant’s reasons for leaving work, the main reason claimant resigned was because she believed that J.H. had deliberately targeted her with the chlorinated water on April 14, 2024, and that the employer had not been responsive in addressing the exposure. Claimant left work without good cause to the extent she quit for this reason.

Claimant did not prove that the April 14, 2024, chlorine incident or the employer’s handling of that incident presented her with a grave situation. That claimant was exposed to chlorine that had circulated in the air from the water in the cups is concerning. However, though the exposure caused claimant to cough and have discomfort, the exposure occurred only once, appeared to be brief in duration, and the record does not show that claimant experienced any lasting adverse effects from the exposure. Furthermore, the employer took affirmative steps to address the issue and to prevent it from recurring. On April 17, 2024, before claimant’s April 20, 2024, resignation, the employer gave J.H. a corrective action plan, counseling her for “leaving chemicals inappropriately in the maintenance pool room.” Transcript at 17. The employer also retrained J.H. on chemical safety on that date. Finally, as discussed above, the record does not substantiate that J.H. left out the cups deliberately to target claimant, given

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<sup>1</sup> As yet another example, at hearing, claimant alleged that J.H. had called the police on claimant’s wife when claimant’s wife had “delivered a [D]oor [D]ash order to [J.H.’s] dark house.” Transcript at 9. However, evidence contained in Exhibit 1 demonstrates only that, in mid-March 2024, claimant’s wife had left a DoorDash order on J.H.’s porch because the house lights were off, and a coworker later told claimant that, after claimant and her wife drove away, the coworker had seen police officers looking around J.H.’s house with a flashlight. Exhibit 1 at 3. On or around that date, claimant’s wife got a DoorDash notification that DoorDash had received a report that claimant’s wife had used abusive or aggressive language while engaging with the platform. Exhibit 1 at 9. This evidence does not substantiate that J.H. ever called the police on claimant’s wife or that J.H. caused the DoorDash notification to be sent to claimant’s wife.

that J.H. had attempted to notify claimant about the cups of chlorinated water in advance via a log post and had offered a plausible explanation in that post for why she left the cups out.

Next, to the extent claimant left work due to March 13, 2024, incident between her and J.H., claimant quit work without good cause. As discussed above, claimant's March 18, 2024, email, though casting J.H. as having embellished the matter, does implicitly concede that claimant physically bumped or pushed J.H. while J.H. was standing in the office doorway. Exhibit 1 at 11. The email account also suggests that claimant escalated the encounter by challenging J.H. to a fight, although shortly after claimant did so, the situation resolved without any additional physical touching. Moreover, the employer took affirmative steps to address the situation between claimant and J.H., issuing an action plan that required claimant and J.H. to refrain from aggressive physical touching, threats, or insults. Exhibit 1 at 12. The plan also instructed the two to keep their interactions during shift transitions brief and limited to "passing on information about the shift[.]" Exhibit 1 at 12. Claimant continued to work for the employer for a little more than a month following the March 13, 2024, incident, and claimant's workplace interactions with J.H. during that period consisted only of the brief 11:00 p.m. shift transitions. Claimant did not establish that the circumstances of the March 13, 2024, incident presented her with a situation of such gravity that she had no reasonable alternative but to leave work.

Finally, to the extent that claimant left work due to J.H.'s alleged "baiting" of claimant or because J.H.'s actions allegedly created a hostile work environment, claimant left work without good cause. Transcript at 12. Claimant did not substantiate that J.H. acted with the purpose of triggering claimant by leaving some cleaning tasks incomplete, or some cleaning implements in disarray. As discussed above, the employer credibly testified that J.H.'s 3:00 to 11:00 p.m. shift was very busy at times, leading to cleaning tasks not being completed. Transcript at 17. With respect to the occasion in February 2024, when claimant became annoyed and told J.H. that she "didn't appreciate all the extra cleaning [J.H. had] been leaving for [her]," it was foreseeable that there would be incomplete cleaning tasks because the employer's hotel had many guests due to increased bookings from a local basketball league. With respect to J.H. leaving brooms and mops in disarray, while claimant's desire for neatly organized cleaning implements was understandable, a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would not leave work for this reason.

Similarly, claimant perceived J.H. to be "aggressively following" her and "asserting dominance" when J.H. asked claimant to sign cash drops. Transcript at 8-9. However, the record supports the inference that J.H. was required to have an employee from the incoming shift sign the drops, and that J.H. would seek to have claimant do so was logical since claimant's duties included ensuring that the hotel's accounts were accurate. Exhibit 1 at 10. While J.H.'s insistence that claimant sign the drops may have been excessive, claimant did not show that a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would leave work for this reason.

For these reasons, claimant quit work without good cause and is disqualified from receiving unemployment insurance benefits.

Note that the order under review erroneously concluded that the effective date of claimant's disqualification is April 21, 2024. Order No. 24-UI-269533 at 4. However, because claimant's work separation occurred on Saturday, April 20, 2024, the date of claimant's disqualification is effective the

beginning of that week, Sunday April 14, 2024. Therefore, the order under review is modified to the correct disqualification date of April 14, 2024.

**DECISION:** Order No. 24-UI-269533 is modified as set forth above.

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

**DATE of Service: December 6, 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.

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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**

ទោរទៅ – តម្រូវការនេះមិនមែនជាភារកិច្ចរបស់យើងទេ បើសិនជាអ្នកមិនយល់អំពីសេចក្តីសម្រេចនេះ ឬ បើសិនជាអ្នកមិនយល់ស្របចំពោះសេចក្តីសម្រេចនេះទេ ត្រូវទាក់ទងគណៈកម្មការឧទ្ធរណ៍ការងារភ្លាមៗ។ ប្រសិនបើលោកអ្នកមិនយល់ស្របចំពោះសេចក្តីសម្រេចនេះទេ លោកអ្នកអាចដាក់ពាក្យប្តឹងសុំឲ្យមានការពិនិត្យរឿងក្តីឡើងវិញជាមួយតុលាការឧទ្ធរណ៍រដ្ឋ Oregon ដោយអនុវត្តតាមសេចក្តីណែនាំដែលសរសេរនៅខាងចុងបញ្ចប់នៃសេចក្តីសម្រេចនេះ។

**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 دستورالعمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

**Employment Appeals Board - 875 Union Street NE | Salem, OR 97311**  
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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.