

EMPLOYMENT APPEALS BOARD DECISION
2024-EAB-0831

Reversed
No Disqualification

PROCEDURAL HISTORY: On August 14, 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 23, 2024 (decision # L0005599493).¹ Claimant filed a timely request for hearing. On November 21, 2024, ALJ Schmidt conducted a hearing at which the employer failed to appear, and on November 27, 2024, issued Order No. 24-UI-275069, affirming decision # L0005599493. On December 5, 2024, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant submitted two written arguments, on December 5, 2024, at approximately 12:22 p.m. and 12:30 p.m. The later of the two arguments contained an additional paragraph explaining claimant's inclusion of documents relating to her divorce. The two written arguments were otherwise identical. EAB did not consider the second of claimant's written arguments when reaching this decision because she did not include a statement declaring that she provided a copy of the argument to the opposing party or parties as required by OAR 471-041-0080(2)(a) (May 13, 2019). Additionally, both arguments 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 or that the information was relevant and material to EAB's determination of whether claimant quit with good cause. 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 first written argument to the extent it was based on the record.

FINDINGS OF FACT: (1) Oregon State University employed claimant as an integrated pest management (IPM) educator from approximately September 2023 through June 28, 2024. The employer

¹ Decision # L0005599493 stated that claimant was denied benefits from July 7, 2024, to July 5, 2025. However, because decision # L0005599493 noted the work separation date was June 28, 2024, the decision should have stated that claimant was disqualified from receiving benefits beginning Sunday, June 23, 2024, and until she earned four times her weekly benefit amount. *See* ORS 657.176.

paid claimant an annual salary of \$65,000 in this position. Claimant had previously worked for the employer in various positions, starting in 2006. Prior to accepting the role as an IPM educator, claimant had been working for the employer as a research associate in a different department, where she was paid an annual salary of \$67,000.

(2) Between September 2023 and June 2024, claimant became increasingly frustrated with her immediate supervisor, the employer's IPM center director, who had started in her position at about the same time as claimant had started working in the department. Claimant's supervisor engaged in controlling behaviors, such as making a point to track claimant's working hours despite the fact that claimant's position was not hourly, and that claimant had been performing satisfactorily. Claimant's supervisor also added additional assignments to claimant's workload that were outside of claimant's job duties, and then blamed claimant when she complained that this resulted in not having adequate time to complete her regular job duties. Claimant's supervisor also criticized her for completing specific required tasks, such as expense reports. Claimant's supervisor dismissed her concerns when claimant attempted to discuss them.

(3) The behavior of claimant's supervisor caused claimant enough stress that claimant began to lose weight. In addition, the supervisor's poor reputation and failure to give claimant credit for her contributions began to damage claimant professionally, as others lost interest in working with claimant because of her association with her supervisor.

(4) As a result of the increasingly difficult situation with her supervisor, claimant contacted the employer's human resources (HR) department, the employer's employee relations department, and her supervisor's manager. While all acknowledged that claimant's situation was difficult and that claimant's supervisor had a history of such behavior in prior positions with the employer, none provided any options to address claimant's concerns.

(5) In early June 2024, claimant reached out to her former manager at the employer from her previous position as a research associate. Claimant asked if she could return to her previous position. Claimant's former manager approved this request but did not provide a firm date for claimant's return. Because claimant received confirmation that she could return to her prior position, she decided to resign.

(6) On June 15, 2024, claimant submitted her resignation from her position as an integrated pest management educator. In her resignation email, claimant stated that she could vacate the position as early as June 28, 2024, or could remain in her position until as late as July 31, 2024, to provide more time to plan a transition. Claimant's supervisor accepted claimant's resignation, effective June 28, 2024.

(7) After learning that her position would end on June 28, 2024, claimant contacted her former manager to arrange for a start date for her return to work as a research associate. Claimant's former manager initially offered a return date of July 15, 2024. However, HR was unable to complete claimant's rehire as a research associate until approximately September 1, 2024, in part because claimant had to complete a background check for the research associate position.

CONCLUSIONS AND REASONS: Claimant 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). 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.

A claimant who leaves work to accept an offer of other work “has left work with good cause only if the offer is definite and the work is to begin in the shortest length of time as can be deemed reasonable under the individual circumstances. Furthermore, the offered work must reasonably be expected to continue, and must pay [either] an amount equal to or in excess of the weekly benefit amount; or an amount greater than the work left.” OAR 471-030-0038(5)(a).

The order under review concluded that “[a]lthough claimant faced a grave situation in the treatment she received from her supervisor, she would not have quit had she not received an offer to return to her prior position as a research associate,” and claimant’s decision to quit therefore was governed by OAR 471-030-0038(5)(a). Order No. 24-UI-275069 at 3. The order under review further concluded that claimant did not have good cause to quit under OAR 471-030-0038(5)(a) because the offer was not definite, as it was contingent upon prerequisites that claimant had not completed when she quit.² Order No. 24-UI-275069 at 3. The order under review correctly concluded that to the extent claimant quit to accept the offer of other work, she did not quit with good cause under OAR 471-030-0038(5)(a). However, the record shows that claimant’s difficult interactions with her supervisor was a distinct and additional reason for claimant’s voluntary leaving. Therefore, even if claimant’s decision to quit based on her acceptance of other work was not good cause, it is necessary to examine this additional reason for quitting and determine whether it constituted good cause under the standard rule set forth by OAR 471-030-0038(4). The record shows that it did.

Claimant’s difficulties with her supervisor included micromanagement of claimant’s time, undue criticism, and expectations that claimant perform work that was not part of her actual responsibilities, but which took claimant away from her actual responsibilities. The record shows that these circumstances, which persisted through essentially all of claimant’s time in the position, had two notably negative effects on claimant. The stress of the conflicts with her supervisor was significant enough to cause claimant to lose weight. Additionally, due to the supervisor’s poor reputation and claimant’s association with the supervisor, claimant’s professional reputation began to suffer, such that others in claimant’s field no longer wanted to work with her. Given the effects that working with her supervisor had both on claimant’s health and her professional reputation, claimant’s situation was such that a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would have quit if there was no reasonable alternative.

² In pertinent part, the Department does not consider a job offer to be definite “if [it] is contingent upon . . . [such things as] passing a drug test, background check, credit check, and/or an employer receiving a contract.” Oregon Employment Department, UI Benefit Manual §442 (Rev. 04/01/10).

Claimant had no reasonable alternative but to quit. The record shows that claimant made attempts to talk to her supervisor directly to address claimant's concerns, but that the supervisor was dismissive, and did not change her behavior as a result. The record also shows that claimant attempted to address her concerns about her supervisor with the employer's HR department, the employer's employee relations department, and her supervisor's manager, but that none of these parties offered any solutions, despite acknowledging the supervisor's negative reputation. The record does not show that any other reasonable alternatives to quitting were available to claimant. Therefore, because claimant's difficulties with her supervisor constituted a situation of such gravity that she had no reasonable alternative but to quit, claimant quit work with good cause. Claimant is not disqualified from receiving benefits based on the work separation.

DECISION: Order No. 24-UI-275069 is set aside, as outlined above.

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

DATE of Service: January 7, 2025

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.

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 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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