

EMPLOYMENT APPEALS BOARD DECISION
2024-EAB-0861

Affirmed
Disqualification

PROCEDURAL HISTORY: On October 7, 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 September 8, 2024 (decision # L0006545214).¹ Claimant filed a timely request for hearing. On November 26, 2024, ALJ Schmidt conducted a hearing, and on December 4, 2024 issued Order No. 24-UI-275605, affirming decision # L0006545214. On December 17, 2024, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Group IV Dental Lab, Inc. employed claimant as a dental technician from October 17, 2022 until September 9, 2024.

(2) The employer expected that their employees would not interrupt the owner during a period each morning when he was preparing the lab for the day. If employees had questions for the owner during these periods, including time-sensitive or urgent questions, they were to send them through an online messaging system. Claimant understood this expectation.

(3) During her employment, claimant complained to the owner or other members of management about two other employees with whom she had conflicts. The owner investigated each complaint and imposed discipline as he believed was appropriate. The most recent instance of conflict involving claimant and other employees occurred in July 2024.

(4) Throughout her employment, claimant often found the owner to be “dismissive” toward her, and when she approached him with questions or complaints, felt that he was “frustrated. . . agitated. . . [or] annoyed.” Transcript at 14. Claimant felt that the owner’s policy and attitude prevented her from asking

¹ Decision # L0006545214 stated that claimant was denied benefits from September 8, 2024 to September 6, 2025. However, decision # L0006545214 should have stated that claimant was disqualified from receiving benefits beginning Sunday, September 8, 2024 and until she earned four times her weekly benefit amount. *See* ORS 657.176.

questions necessary to perform her job, and “was frustrat[ed] to constantly be brushed off.” Transcript at 15.

(5) On the morning of September 9, 2024, claimant had a time-sensitive question about her work assignment for the day. Despite knowing that it was the owner’s preparation period, claimant approached him to ask the question in person rather than through the online system. The owner told claimant to come back later. When claimant returned, she was told the same thing. Claimant returned again, and was again turned away. The owner thought claimant was “huffy” and displayed “an attitude” in being turned away the third time. Transcript at 33. He called claimant back into his office and, in a “stern raised voice,” told her that if she “can’t change her attitude then she needs to go home.” Transcript at 28-29.

(6) Claimant disagreed with the owner’s assertion that she had “an attitude” and decided to go home. Shortly thereafter, the owner texted claimant that he interpreted her decision to go home as a resignation and, if that was not what she intended, she needed to return to work and complete the workday. Claimant responded that her final check should be mailed to her and did not attempt to return to work thereafter. Claimant chose to proceed with the resignation because of the owner’s “dismissive” attitude toward her, particularly with respect to asking questions, and she felt that “nothing was going to change.” Transcript at 9.

CONCLUSIONS AND REASONS: Claimant quit 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.

Claimant quit work because the owner reprimanded her and had been generally dismissive of her when she attempted to ask him questions. Though claimant had also been upset by incidents involving coworkers during her employment, the last such incident occurred in July 2024 and was not the reason claimant left work when she did. The owner’s conduct toward claimant, particularly on September 9, 2024, is the proper subject of the good cause analysis.

Both parties agreed that the employer had a policy prohibiting employees from disturbing the owner during the period each morning when he was preparing the lab, and that questions should be asked only through the online messaging system during those periods. Despite claimant understanding this policy, on September 9, 2024, she repeatedly approached the owner during his preparation period with a question. The parties gave differing accounts of the third and final time claimant approached the owner that morning. The owner testified that claimant, after being rebuffed, was “[c]omplaining very vocally and loudly in front of the . . . staff.” Transcript at 28. Claimant rebutted this testimony, testifying that she walked immediately to her workstation without speaking to anybody. Transcript at 42. Even if

claimant's account were accepted as true, and she left the owner without complaining, the record nonetheless shows that claimant repeatedly violated policy that morning by coming to the owner in person with a question instead of using the online system. Thus, the employer's reprimand was not unwarranted.

Claimant's description of the reprimand did not suggest that it was vulgar or abusive. *See* Transcript at 5. While the owner admitted it was conducted in a "stern raised voice," the record does not suggest that this discipline was disproportionate to claimant's policy violations or otherwise objectively unreasonable. Claimant's description of the owner's "dismissive" reactions to her questions or requests to help on other occasions was that they involved "[h]eavy sighs. . . facial expressions. . . and [] just sending [her] away." Transcript at 15. Claimant was understandably frustrated or annoyed by the owner's inaccessibility and "dismissive" attitude when she approached him for help, along with the policy limiting her ability to ask questions in person. Nevertheless, this did not constitute a situation of such gravity that claimant no reasonable alternative but to leave work.

Claimant retained the ability to ask questions, including urgent ones, using the messaging system. The record does not suggest that claimant was held responsible for delays in production or idle periods resulting from having to wait to speak with the owner. Claimant therefore was reasonably able to perform her job despite a working relationship with the owner that she found less than ideal. A reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would not leave work under those circumstances. Accordingly, claimant quit work without good cause.

For these reasons, claimant quit work without good cause and is disqualified from receiving unemployment insurance benefits effective September 8, 2024.

DECISION: Order No. 24-UI-275605 is affirmed.

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

DATE of Service: January 15, 2025

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

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 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.

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