

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0012

Affirmed
No Disqualification

PROCEDURAL HISTORY: On October 1, 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 1, 2024 (decision # L0006365934).¹ Claimant filed a timely request for hearing. On December 30, 2024, ALJ Scott conducted a hearing, and on December 31, 2024, issued Order No. 24-UI-278434, reversing decision # L0006365934 by concluding that claimant quit with good cause and was not disqualified from receiving benefits based on the work separation. On January 3, 2025, the employer filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: EAB considered claimant's argument in reaching this decision.

FINDINGS OF FACT: (1) Lane County School District # 19 employed claimant as a behavioral education assistant from September 2021 until September 3, 2024.

(2) During the 2023-2024 school year, claimant worked with an established group of students at a particular elementary school. The nature of claimant's work was to assist these students with behavioral issues. Claimant did not have experience or training working with medically fragile students.

(3) In the summer of 2024, the employer attempted to reassign claimant to a different school. Claimant resisted the reassignment, and the employer agreed to not to move claimant from the elementary school where she had worked during the 2023-2024 school year.

(4) On September 3, 2024, claimant reported for work at the elementary school for the 2024-2025 school year. Students were scheduled to begin classes the next day, September 4, 2024. When claimant arrived

¹ Decision # L0006365934 stated that claimant was denied benefits from September 1, 2024 to September 6, 2025. However, decision # L0006365934 should have stated that claimant was disqualified from receiving benefits beginning Sunday, September 1, 2024 and until she earned four times her weekly benefit amount. See ORS 657.176.

at work, the principal advised that the employer was transferring her from working with the group of students with behavioral issues to working one-on-one with a medically fragile student.

(5) The medically fragile student was prone to having seizures, required the use of feeding tubes, and was confined to a wheelchair. The student's feeding tubes sometimes needed to be changed at school, and when the student needed to use the bathroom, the student had to be lifted and assisted to do so. The student's seizures had to be managed by school staff, when they occurred. In the prior school year, the student had suffered a seizure in class during the first two weeks of school.

(6) Special training was required for those who assisted the medically fragile student. The training included seizure, feeding, and parent communication protocols, as well as alternative emergency evacuation due to the student being wheelchair-bound. Claimant did not have any of the required training.

(7) Claimant was uncomfortable with the responsibility of working with the medically fragile student and thought it posed a risk to the safety of the student because of claimant's lack of training. Claimant expressed her concerns to the principal and asked if there were any other positions available besides working with the medically fragile student. The principal told claimant that there were no other available positions.

(8) The principal did not tell claimant that the special education director had scheduled training relating to the medically fragile student to take place within the next two weeks. When claimant asked about training, the principal stated that it could be offered but did not specify when or where. The principal also did not tell claimant that a nurse was assigned to the school and could be available to help with the medically fragile student.

(9) The principal told claimant that she needed to be prepared to work with the medically fragile student the next day or else resign by the end of the day. Claimant was uncomfortable with the responsibility of working with the medically fragile student and thought it posed a risk to the safety of the student. Claimant therefore resigned effective the end of the day September 3, 2024.

CONCLUSIONS AND REASONS: Claimant voluntarily left 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.

Claimant quit work with good cause. The record shows that on September 3, 2024, the employer abruptly told claimant that she was required to either work one-on-one with the medically fragile student beginning the next day when classes began or, if she was unwilling to do so, resign by the end the day.

The medically fragile student was prone to having seizures, required the use of feeding tubes, and was confined to a wheelchair. The student's feeding tubes sometimes needed to be changed at school, and when the student needed to use the bathroom, the student had to be lifted and assisted to do so. The student's seizures had to be managed by school staff, when they occurred. In the prior school year, the student had suffered a seizure in class during the first two weeks of school. Special training was required for those who assisted the medically fragile student. The training included seizure, feeding, and parent communication protocols, as well as alternative emergency evacuation due to the student being wheelchair-bound. Claimant did not have any of the required training. The record therefore shows that claimant's discomfort with the responsibility of working with the medically fragile student and belief that doing so would pose a risk of harm to the student was reasonable. Claimant faced a situation of such gravity that a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would leave work would quit if there were no reasonable alternative.

Claimant pursued the reasonable alternative of asking the principal if there were any other positions available besides working with the medically fragile student. However, the principal advised there were no alternative positions. Claimant asked about training for assisting with the medically fragile student, and the principal stated that it could be offered, but did not specify when or where it would be available, and claimant had only until the end of the day to decide whether to resign. While a nurse was assigned to the school and could have been available to help with the student, the principal did not make claimant aware of that. Although, the special education director had scheduled training relating to the medically fragile student to take place within the two weeks following when classes began, the employer did not make claimant aware of that either. Accordingly, the record shows that claimant pursued reasonable alternatives prior to leaving work, but no reasonable alternatives were available to her.

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

DECISION: Order No. 24-UI-278434 is affirmed.

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

DATE of Service: January 28, 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 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

Phone: (503) 378-2077 | 1-800-734-6949 | Fax: (503) 378-2129 | TDD: 711

Email: appealsboard@employ.oregon.gov

Website: www.Oregon.gov/employ/pages/employment-appeals-board.aspx

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