

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0013

Affirmed
Disqualification

PROCEDURAL HISTORY: On August 22, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause, disqualifying claimant from receiving benefits effective July 14, 2024 (decision # L0005732182).¹ Claimant filed a timely request for hearing. On December 16, 2024, ALJ Lucas conducted a hearing, and on December 23, 2024, issued Order No. 24-UI-277857, affirming decision # L0005732182. On December 30, 2024, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Central Oregon Intergovernmental Council employed claimant as a bus driver from March 13, 2023, until July 19, 2024.

(2) The employer offered three types of work schedules for their bus drivers, including full-time, part-time, and on-call. On-call drivers were not guaranteed any work hours and could accept or reject any hours offered. Full-time drivers were required to wash vehicles in addition to their driving duties.

(3) Before and during claimant's employment, claimant suffered from atrial fibrillation that was treated with a pacemaker.

(4) From March 13 through October 9, 2023, claimant worked part-time. He requested to be moved to a full-time schedule, and from October 9 through November 15, 2023, worked that schedule.

¹ Decision # L0005732182 stated that claimant was denied benefits from August 4, 2024 through August 2, 2025. However, because decision # L0005732182 found that the work separation occurred on July 19, 2024, it should have stated that claimant was disqualified from receiving benefits beginning Sunday, July 14, 2024, and until he earned four times his weekly benefit amount. *See* ORS 657.176.

(5) Due to claimant's heart condition, he felt unable to continue working a full-time schedule. He asked to work on-call and was permitted to do so beginning November 16, 2023. Claimant had hoped to work 24 to 32 hours per week with the on-call schedule.

(6) Claimant was offered fewer hours than he expected with the on-call schedule. By July 2024, the employer had hired additional full-time drivers and claimant believed that, as a result, he was not "getting a fair shot at hours." Transcript at 7. Claimant last performed work on June 27, 2024.

(7) On July 19, 2024, quit due to claimant's dissatisfaction with being offered too few hours to work, and his desire to spend time writing books for sale. Claimant did not want full-time work from the employer or any other employer. The employer would have allowed claimant to resume a full-time or part-time work schedule had he requested it.

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). Claimant had atrial fibrillation, a permanent or long-term "physical or mental impairment" as defined at 29 CFR §1630.2(h). A claimant with an impairment who quits work must show that no reasonable and prudent person with the characteristics and qualities of an individual with such an impairment would have continued to work for their employer for an additional period of time.

A claimant who leaves work due to a reduction in hours "has left work without good cause unless continuing to work substantially interferes with return to full time work or unless the cost of working exceeds the amount of remuneration received." OAR 471-030-0038(5)(e). Per OAR 471-030-0038(5)(b)(G), leaving work without good cause includes leaving work for self-employment.

Claimant quit work because he was dissatisfied with the amount of work hours he was offered after moving to an on-call schedule, and because he wanted to devote his time to writing books for sale. Claimant suffered from atrial fibrillation before and during his employment, which affected his ability to perform certain work responsibilities, such as washing vehicles and maintaining a full-time schedule. Therefore, the applicable analysis is that used for claimants with permanent or long-term impairments.

The record does not suggest that claimant's impairment affected his ability to work a set part-time schedule or on-call schedule. While claimant's heart condition impacted his ability to work a full-time schedule, he testified that he had hoped to work on-call 24 to 32 hours per week. Transcript at 13. This suggests that claimant would have been capable of working a part-time schedule despite his impairment, and he therefore did not face a grave situation as a result of the impairment.

To the extent claimant quit work due to the number of work hours offered, this did not constitute good cause. Claimant had worked a full-time schedule through November 15, 2023, and would have been

permitted by the employer to continue doing so indefinitely. Claimant testified that he requested the change to an on-call schedule because “[p]hysically I just couldn’t do it,” referring to the requirements of a full-time schedule. Transcript at 13. To the extent OAR 471-030-0038(5)(e) could apply to a voluntary reduction in hours, claimant did not assert that working on-call impacted his ability to seek other work or that the cost of working exceeded his remuneration. And, because claimant could have worked additional hours if he agreed to a different type of work schedule, his dissatisfaction with the on-call hours he was offered did not constitute a grave situation. Moreover, even if the amount of work hours offered had constituted a grave situation, claimant had the reasonable alternative of requesting a work schedule that had guaranteed hours in the range he desired. Therefore, claimant has not shown good cause for leaving work based on the amount of work hours offered.

To the extent claimant quit work to write books for sale, this also did not constitute good cause. Claimant testified, when asked how he would be “in a better position” by quitting work, that he had intended to engage in “self-employment writing books[.]” Transcript at 11. Under OAR 471-030-0038(5)(b)(G), quitting work to engage in self-employment is not good cause for leaving work.

Accordingly, claimant quit work without good cause and is disqualified from receiving unemployment insurance benefits effective July 14, 2024.

DECISION: Order No. 24-UI-277857 is affirmed.

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

DATE of Service: January 24, 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 دستور العمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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