

State of Oregon
Employment Appeals Board
875 Union St. N.E.
Salem, OR 97311

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0057

Affirmed
Timely Request for Hearing
Disqualification

PROCEDURAL HISTORY: On August 29, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit work without good cause and was therefore disqualified from receiving unemployment insurance benefits effective July 28, 2024 (decision # L0005894150).¹ Claimant filed a timely request for hearing, but the Department failed to construe it as such.² On September 18, 2024, decision # L0005894150 became final without claimant having filed a recognized request for hearing. On September 20, 2024, claimant filed a late request for hearing. ALJ Kangas considered the request, and on November 20, 2024 issued Order No. 24-UI-273948, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by December 4, 2024. On December 4, 2024, claimant filed a timely response to the appellant questionnaire. On December 27, 2024, ALJ Christon conducted a hearing, and on January 2, 2025 issued Order No. 25-UI-278554, concluding that claimant filed a timely request for hearing, canceling Order No. 24-UI-273948, and affirming decision # L0005894150 on the merits.³ On January 22, 2025, claimant filed an application for review of Order No. 25-UI-278554 with the Employment Appeals Board (EAB).

¹ Decision # L0005894150 stated that claimant was denied benefits from August 4, 2024 to August 2, 2025. However, because decision # L0005894150 concluded that the work separation occurred on July 31, 2024, it should have stated that claimant was disqualified from receiving benefits beginning Sunday, July 28, 2024 and until she earned four times her weekly benefit amount. See ORS 657.176.

² Decision # L0005894150 was visible to claimant in Frances Online on August 28, 2024, and was served by mail the following day. Claimant filed a request for hearing on August 28, 2024, which the Department did not construe as a valid hearing request.

³ Order No. 25-UI-278554 concluded that claimant was disqualified from receiving benefits effective August 4, 2024, but as it also concluded that the work separation occurred on July 31, 2024 and "affirmed" decision # L0005894150, it is presumed that the order intended that the disqualification be effective July 28, 2024. Order No. 25-UI-278554 at 4.

WRITTEN ARGUMENT: Claimant did not declare that she provided a copy of her argument to the opposing party or parties as required by OAR 471-041-0080(2)(a) (May 13, 2019). The argument also 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 as required by OAR 471-041-0090 (May 13, 2019). EAB considered only information received into evidence at the hearing when reaching this decision. *See* ORS 657.275(2).

EAB considered the entire hearing record, including witness testimony and any exhibits admitted as evidence. EAB agrees with the part of Order No. 25-UI-278554 concluding that claimant filed a timely request for hearing. That part of Order No. 25-UI-278554 is **adopted**. *See* ORS 657.275(2).

FINDINGS OF FACT: (1) John M. Borden C.P.A., P.C. employed claimant as an accountant and bookkeeper from approximately September 2023 until July 31, 2024.

(2) When claimant accepted the position, it was represented as being temporary and part-time. In the years preceding this employment, claimant had established herself as an independent contractor working for other businesses. Claimant believed the wages paid by the employer were too low but accepted the temporary position "to help" the owner, with the intent of eventually returning to the independent contractor work for multiple businesses. Transcript at 11.

(3) As of July 2024, the employer intended to continue employing claimant indefinitely. The employer had not reduced claimant's hours or wages. Claimant missed a significant amount of work during June and July 2024 due to illness. Claimant felt that she was unable to "sustain" herself financially working only for the employer and therefore decided to leave employment to return to working as an independent contractor, including potentially serving in that capacity for the employer. Transcript at 20.

(4) On July 31, 2024, claimant gave notice to the employer of her resignation with immediate effect. Claimant told the employer that she was leaving to return to work as an independent contractor.

(5) A "couple of years" prior to the work separation, claimant had been "encouraged to" apply for the Department's self-employment assistance (SEA) program. Transcript at 14. Claimant intended to participate in that program after she quit working for the employer. Claimant inquired of the Department regarding the program prior to quitting and believed that quitting work to engage in independent contractor work would not affect her eligibility to receive benefits under the program, though claimant was "not sure anybody actually told [her] that." Transcript at 14-15.

CONCLUSIONS AND REASONS: Claimant voluntarily 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. Per OAR 471-030-0038(5)(b)(G), leaving work without good cause includes “leaving work for self-employment.”

Claimant quit working for the employer to return to self-employment work as an independent contractor. Claimant believed that she could earn more money this way because she could contract with more than one business at a time and would be paid higher rates than the wage she received from the employer. While it may have been a reasonable and prudent decision for claimant to increase her earning ability by engaging in work as an independent contractor rather than maintaining traditional employment, OAR 471-030-0038(5)(b)(G) categorically states that a claimant who leaves work for self-employment does so without good cause.

The Department’s SEA program, with which claimant had some familiarity and in which she planned to participate upon leaving work, excuses claimants from the standard benefit eligibility requirements of being “available for work, actively seeking work, and refusing to accept suitable work” while they focus instead on self-employment activities. ORS 657.158(3)(a). Nonetheless, to participate in SEA, a claimant must meet all other requirements to be eligible for regular unemployment insurance benefits, which includes not separating from work under disqualifying circumstances. ORS 657.158(3); ORS 657.176(2)(c).

Claimant testified that she believed, after contacting the Department prior to her resignation, that she could quit working for the employer to engage in self-employment and still receive SEA benefits. Transcript at 14-15. However, claimant testified that she was “not sure” whether the Department representative told her that quitting work for self-employment would disqualify her from receiving SEA benefits, and described what she recalled of the specifics of that conversation as “all kind of unclear.” Transcript at 14-15. This evidence is insufficient to establish that the proximate cause of claimant’s decision to quit work was a reasonable reliance on erroneous information provided by the Department, rather than claimant’s desire to earn more income through self-employment. Therefore, more likely than not, claimant left work for self-employment and, by rule, did so without good cause.

For these reasons, claimant voluntarily quit work without good cause and is disqualified from receiving unemployment insurance benefits effective July 28, 2024.

DECISION: Order No. 25-UI-278554 is affirmed.

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

DATE of Service: February 25, 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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