

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0090

Affirmed
Disqualification

PROCEDURAL HISTORY: On December 2, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit work without good cause and therefore was disqualified from receiving unemployment insurance benefits effective November 3, 2024, through November 1, 2025 (decision # L0007498721). Claimant filed a timely request for hearing. On January 21, 2025, ALJ Lucas conducted a hearing at which the employer failed to appear, and on January 24, 2025, issued Order No. 25-UI-280917, modifying decision # L0007498721 by concluding that claimant voluntarily quit work without good cause and therefore was disqualified from benefits effective September 29, 2024. On February 13, 2025, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant did not state that he provided a copy of his argument to the employer 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 them from offering the information during the hearing as required by OAR 471-041-0090 (May 13, 2019). EAB considered only the information received into evidence at the hearing. *See* ORS 657.275(2).

FINDINGS OF FACT: (1) Intel Americas, Inc. employed claimant as a global sales director from May 1, 2000, through September 30, 2024.

(2) In or around August 2024, the employer announced that they intended to lay off approximately 30-35% of the 5,000 employees in claimant's division on November 15, 2024. Employees who were laid off would receive a severance package and resources to help with finding new employment. Although the employer did not tell claimant that he would be laid off, claimant believed he would likely be among those laid off.

(3) After announcing the pending layoffs, the employer notified the employees in claimant's division that they could take a voluntary separation package, effective September 30, 2024. Regardless of

whether an employee chose to take the voluntary separation package or was laid off, they would receive the same severance package and access to re-employment resources. However, employees were not able to access the re-employment resources until they formally separated from employment. Thus, electing to resign early would give employees earlier access to resources in finding new employment in the event they were later laid off.

(4) On or around August 23, 2024, claimant notified the employer that he was electing to be voluntarily laid off on September 30, 2024. Claimant made this choice on the assumption that he would likely be laid off on November 15, 2024. Claimant believed it would be beneficial to have earlier access to the re-employment services offered by the employer and to start his job search earlier.

(5) On September 30, 2024, claimant separated from work. Had claimant not chosen the voluntary layoff option, he would have been permitted to continue working for the employer until *at least* November 15, 2024, or longer if he was not laid off by the employer on that date.

CONCLUSIONS AND REASONS: Claimant voluntarily quit work without good cause.

Nature of the Work Separation. If the employee could have continued to work for the same employer for an additional period of time, the work separation is a voluntary leaving. OAR 471-030-0038(2)(a) (September 22, 2020). If the employee is willing to continue to work for the same employer for an additional period of time but is not allowed to do so by the employer, the separation is a discharge. OAR 471-030-0038(2)(b).

The employer notified the employees in claimant's division that they were planning to lay off approximately 30-35% of the employees in the division. The employer offered employees the option to take a voluntary separation on September 30, 2024, before involuntary layoffs were implemented on November 15, 2024. Claimant chose to voluntarily separate from work on September 30, 2024. At hearing, claimant asserted that he did not quit, but that he merely volunteered to be terminated earlier.¹ Audio Record at 22:20. Nevertheless, under OAR 471-030-0038(2)(a), claimant's separation from work was a voluntary quit.

The record shows that had claimant not chosen the early layoff the employer would have permitted claimant to continue to work for *at least* an additional six weeks after September 30, 2024, and longer if he was one of the 65-70% of employees in his division that was not selected for lay off. Claimant chose not to wait to find out if he would be selected to be laid off, so that he could gain an advantage in his job search in the event he was laid off. Thus, as of September 30, 2024, claimant was not willing to continue working for the employer for an additional period of time. Because the employer would have allowed claimant to continue working for them, but claimant chose not to do so, the work separation was a voluntary quit which occurred on September 30, 2024.

Voluntary Quit. 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

¹ Claimant also suggested at hearing that the characterization of the work separation was the result of his having misreported the separation as a voluntary quit on his initial claim for benefits. Audio Record at 22:00. Claimant should note, however, that whether he voluntarily quit or was discharged is ultimately a question of law, the answer to which turns on the application of the law to the facts in the record, not on the parties' subjective characterizations of the work separation.

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). “[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)(A), leaving work without good cause includes leaving suitable work to seek other work.

Claimant voluntarily quit work on September 30, 2024, because he believed that he would otherwise be laid off on November 15, 2024, and that by selecting this option he would therefore have the opportunity to start looking for work earlier and gain earlier access to the employer’s re-employment resources. To be clear, while claimant speculated that he would likely be laid off on November 15, 2024, the record does not show that the employer informed claimant he would be laid off on November 15, 2024. Therefore, claimant’s decision to quit was based on speculation. Under the applicable provisions of OAR 471-030-0038, this did not constitute good cause for quitting.

To the extent that claimant quit work to seek other work, he quit without good cause under OAR 471-030-0038(5)(b)(A). That provision bars concluding that an individual quit work with good cause if the work the individual left was suitable. There is no indication in the record that claimant’s position as global sales director was not suitable.² Therefore, claimant left suitable work, at least in part, to look for other work, which is not good cause.

To the extent that claimant quit work to gain earlier access to the employer’s re-employment resources than he otherwise would have, this also did not constitute good cause for quitting. The standard for “good cause” is objective, and requires a showing that no reasonable and prudent person would have continued working for the employer for an additional period of time. Under these circumstances, claimant has not met his burden to show that he faced a situation of such gravity that he had no reasonable alternative but to quit. At the time that he gave his notice in August 2024, claimant did not know for certain whether he would be laid off by the employer. The record shows that between 65 and 70% of the employees working in claimant’s division were not slated to be laid off, and it can be reasonably inferred from the record that the number of employees who would be involuntarily laid off by the employer in November 2024 may have been reduced or otherwise impacted by the number of employees who chose to voluntarily separate from the employer before that date. Additionally, claimant would have received the same severance package and access to re-employment services if he continued working for the employer and was laid off in November 2024, then he did by taking the voluntary separation from the employer in September 2024. Claimant therefore did not quit work for a reason of such gravity that he had no reasonable alternative but to quit work when he did.

For the above reasons, claimant voluntarily quit work without good cause, and is disqualified from receiving unemployment insurance benefits effective September 29, 2024.

² “In determining whether any work is suitable for an individual, the Director of the Employment Department shall consider, among other factors, the degree of risk involved to the health, safety and morals of the individual, the physical fitness and prior training, experience and prior earnings of the individual, the length of unemployment and prospects for securing local work in the customary occupation of the individual and the distance of the available work from the residence of the individual.” ORS 657.190

DECISION: Order No. 25-UI-280917 is affirmed.

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

DATE of Service: March 11, 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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Website: www.Oregon.gov/employ/pages/employment-appeals-board.aspx

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