

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0102

Affirmed ~ No Disqualification

Confirmada ~ No Descalificación

Este documento incluye información importante que no ha sido traducida al español. Llame a la Junta de Apelaciones de Empleo (EAB) al 503-378-2077 para obtener servicios de traducción gratuitos.¹

PROCEDURAL HISTORY: On July 18, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged, but not for misconduct, and was not disqualified from receiving unemployment insurance benefits based on the work separation (decision # L0005226762). The employer filed a timely request for hearing. On February 5, 2025, ALJ Scott conducted a hearing interpreted in Spanish, and on February 12, 2025 issued Order No. 25-UI-282885, affirming decision # L0005226762. On February 17, 2025, the employer filed an application for review of Order No. 25-UI-282885 with the Employment Appeals Board (EAB).

HISTORIA PROCESAL: El 18 de julio de 2024, el Departamento de Empleo de Oregón (el Departamento) notificó una decisión administrativa concluyendo que la reclamante fue despedida, pero no por mala conducta, y no fue descalificada para recibir beneficios de seguro de desempleo basados en la separación laboral (decisión No. L0005226762). El empleador presentó una solicitud oportuna para una audiencia. El 5 de febrero de 2025, la Jueza Administrativa Scott llevó a cabo una audiencia interpretada en español, y el 12 de febrero de 2025 emitió la Orden No. 25-UI-282885, confirmando la decisión No. L0005226762. El 17 de febrero de 2025, el empleador presentó una solicitud de revisión de la Orden No. 25-UI-282885 ante la Junta de Apelaciones de Empleo (EAB).

¹ This document includes important information that has not been translated into Spanish. Please call the Employment Appeals Board (EAB) at 503-378-2077 to obtain free translation services.

FINDINGS OF FACT: (1) Umatilla County School District employed claimant as a special education teacher from August 22, 2022 through June 12, 2024.

(2) The employer expected that their teachers would maintain licensure in accordance with state rules. Claimant understood this expectation.

(3) At the time of claimant's hire, she was granted a restricted license to teach in special education. The license was conditioned on claimant obtaining, within a year, a teaching license in Arizona that could be used to grant an Oregon license under a reciprocity agreement, and enrollment in an approved special education endorsement program. The restricted license could be renewed if claimant met these requirements.

(4) By the end of the first year of the restricted license, claimant had not obtained the Arizona license or enrolled in the special education endorsement program. Nonetheless, her restricted license was renewed for an additional year on the condition that she obtain the Arizona license and complete at least half of the endorsement program.

(5) In late August 2023, at the beginning of the second year of her restricted license, claimant enrolled in an approved endorsement program. Claimant learned she was unable to obtain an Arizona teaching license because she had not met their requirements regarding teaching experience at that time.

(6) After enrolling in the endorsement program claimant "wasn't able to start" it due to illness. Transcript at 13. Claimant remained unable to participate in the program for medical reasons for the remainder of the license year.

(7) Claimant would have been eligible for a third and final one-year renewal of her restricted license in August 2024 had she made the required progress toward obtaining an Oregon license in the first two years. However, Oregon's licensing body informed the employer by April 2024 that they would not renew claimant's license for the third year due to claimant's failure to make the required progress, and that she would not be able to teach special education after the end of the 2023-2024 school year.

(8) At some point prior to May 1, 2024, the employer sent claimant a pre-termination letter stating that they intended to discharge her at the end of the 2023-2024 school year because she could not renew her restricted license for the 2024-2025 school year. The employer set a May 1, 2024 meeting for claimant to contest the anticipated discharge, which claimant did not attend.

(9) On May 14, 2024, claimant "applied to several positions" with the employer that she believed she was authorized to perform based on having a master's degree in teaching English as a second language (ESL). Transcript at 17. The employer responded that it had no positions available for which claimant could obtain licensure for the following school year.

(10) On June 12, 2024, the employer discharged claimant due to the expiration of her restricted license and inability to renew it.

CONCLUSIONS AND REASONS: Claimant was discharged, but not for misconduct.

CONCLUSIONES Y RAZONES: *La reclamante fue despedida, pero no por mala conducta.*

ORS 657.176(2)(a) requires a disqualification from unemployment insurance benefits if the employer discharged claimant for misconduct connected with work. “As used in ORS 657.176(2)(a) . . . a willful or wantonly negligent violation of the standards of behavior which an employer has the right to expect of an employee is misconduct. An act or series of actions that amount to a willful or wantonly negligent disregard of an employer’s interest is misconduct.” OAR 471-030-0038(3)(a) (September 22, 2020). “[W]antonly negligent’ means indifference to the consequences of an act or series of actions, or a failure to act or a series of failures to act, where the individual acting or failing to act is conscious of his or her conduct and knew or should have known that his or her conduct would probably result in a violation of the standards of behavior which an employer has the right to expect of an employee.” OAR 471-030-0038(1)(c). In a discharge case, the employer has the burden to establish misconduct by a preponderance of evidence. *Babcock v. Employment Division*, 25 Or App 661, 550 P2d 1233 (1976).

The willful or wantonly negligent failure to maintain a license, certification or other similar authority necessary to the performance of the occupation involved is misconduct, so long as such failure is reasonably attributable to the individual. OAR 471-030-0038(3)(c).

The employer discharged claimant because she failed to maintain a license required for her position as a special education teacher. The record shows that claimant was given two conditions for her second year of restricted licensure that would determine whether she was eligible to renew her license for the 2024-2025 school year. These conditions were that she attempt to obtain an Arizona teaching license, and that she complete at least half of an approved special education endorsement program. Claimant testified that she inquired of Arizona about obtaining a license based on teaching experience, which could be used under a reciprocity agreement to obtain an Oregon license, but was told that she lacked one year of required teaching experience at that point. Transcript at 13. Claimant also testified that she enrolled in an approved endorsement program in late August 2023, but could not start the program due to a “medical issue” that rendered her “[not] [m]entally capable to go to school.” Transcript at 13, 18-19.

The employer’s witness gave conflicting testimony as to whether the endorsement program had been approved by Oregon’s licensing body, but did not rebut claimant’s stated reasons for being denied an Arizona license and being medically unable to participate in the endorsement program in which she had enrolled. Transcript at 21. As the testimony regarding approval of the endorsement program is no more than equally balanced, and the employer bears the burden of proof by a preponderance of the evidence, this fact has been found in accordance with claimant’s testimony. Therefore, claimant was denied an Arizona license due to a lack of teaching experience that she had no ability to timely remedy. Moreover, claimant failed to complete at least half of the endorsement program only because medical problems prevented her participation, despite timely enrollment in an approved program. The circumstances that prevented renewal of claimant’s restricted license were therefore beyond her reasonable control.

Further, claimant’s efforts in consulting Arizona, enrolling in the endorsement program, and seeking transfer to a position that she believed did not require renewal of a restricted license demonstrated that she was not indifferent to the consequences of her actions regarding the need for a license. Therefore, claimant’s failure to maintain the license was not willful or the result of wanton negligence. Accordingly, the employer did not discharge claimant for misconduct.

For these reasons, the employer discharged claimant, but not for misconduct, and she is not disqualified from receiving unemployment insurance benefits because of the work separation.

[E]l empleador despidió a la reclamante, pero no por mala conducta, y ella no está descalificada para recibir los beneficios del seguro de desempleo debido a la separación del trabajo.

DECISION: Order No. 25-UI-282885 is affirmed. *La Orden de la Audiencia 25-UI-282885 queda confirmada.*

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

DATE of Service: March 17, 2025

FECHA de Notificación Legal: 17 de marzo de 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.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveymizmo.com/s3/5552642/EAB-Customer-Service-Survey>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.

NOTA: Puede apelar esta decisión presentando una Petición de Revisión Judicial ante la Corte de Apelaciones de Oregon (Oregon Court of Appeals) **dentro de los 30 días siguientes a la fecha de entrega de esta decisión indicada arriba**. Vea ORS 657.282. Para obtener formularios e información, visite <https://www.courts.oregon.gov/courts/appellate/forms/Pages/appeal.aspx> y elija el formulario para “Junta de Apelaciones Laborales”. En este sitio web, hay información disponible en español. Puede solicitar un intérprete para la Corte en <https://web.courts.oregon.gov/osca/clas/CLASRequestFormRedirect.html> También puede comunicarse con la Corte de Apelaciones por teléfono al (503) 986-5555, por fax al (503) 986-5560 o por correo a 1163 State Street, Salem, Oregon 97301.

Por favor, ayúdenos a mejorar nuestro servicio completando una encuesta de servicio al cliente. Para completar la encuesta en línea, vaya a <https://www.surveymizmo.com/s3/5552642/EAB-Customer-Service-Survey>. Si no puede completar la encuesta en línea y desea obtener una copia impresa de la encuesta, comuníquese con nuestra oficina.



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.

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

The Oregon Employment Department is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Language assistance is available to persons with limited English proficiency at no cost.

El Departamento de Empleo de Oregon es un programa que respeta la igualdad de oportunidades. Disponemos de servicios o ayudas auxiliares, formatos alternos y asistencia de idiomas para personas con discapacidades o conocimiento limitado del inglés, a pedido y sin costo.