

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0108

Reversed
No Disqualification

PROCEDURAL HISTORY: On December 4, 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 10, 2024 (decision # L0007481773).¹ On December 26, 2024, claimant filed a request for hearing. On February 3, 2025, ALJ Hall conducted a hearing, at which the employer failed to appear, and on February 6, 2025, issued Order No. 25-UI-282279, modifying decision # L0007481773 by concluding that claimant voluntarily quit work without good cause and was disqualified from receiving benefits effective October 27, 2024. On February 18, 2025, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant submitted arguments on February 21, 2025, and March 6, 2025. Claimant's arguments 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. Under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB considered only information received into evidence at the hearing. EAB considered the parts of claimant's arguments that were based on the hearing record.

FINDINGS OF FACT: (1) First Interstate Bancsystem, Inc. employed claimant, most recently as a treasury solutions officer, from November 24, 2018, until November 1, 2024.

(2) In December 2023, claimant and one of her coworkers had a tense interaction. The coworker asked claimant a question about a client and claimant felt the coworker had yelled at her during the incident, while the coworker felt claimant had ignored her question. The two went to their respective managers and complained about the other. Claimant thought of the coworker as a "bully" and reported to her

¹ Decision # L0007481773 stated that claimant was denied benefits from November 10, 2024 to November 15, 2025. However, decision # L0007481773 should have stated that claimant was disqualified from receiving benefits beginning Sunday, November 10, 2024 and until she earned four times her weekly benefit amount. See ORS 657.176.

manager that the coworker had created a hostile work environment. Transcript at 5. The manager took no action against the coworker. After claimant made this report, the coworker frequently complained to claimant's manager "about different items that [the coworker] felt [claimant] was not doing well[.]" Transcript at 5.

(3) In February 2024, the coworker yelled at claimant during an interaction in which the coworker misunderstood claimant to have been mocking a performer who fell during the Super Bowl halftime show. After this incident, claimant asked her manager if she could work remotely for a week to "get reset" and avoid working with the coworker. Transcript at 6. The manager denied the request.

(4) In April 2024, the employer placed claimant on a performance improvement plan. The critiques in the plan were based on complaints the coworker had raised with the employer after claimant and the coworker's tense interaction in December 2023.

(5) In June 2024, claimant had a performance review and received a "needs improvement" rating for the first time during her tenure with the employer. Transcript at 7. The needs improvement rating reflected parts of the April performance improvement plan that the employer deemed were lacking relating to working with coworkers and learning their styles. The complaints regarding claimant's ability to work with coworkers were driven by the coworker "continually" going to claimant's manager "with negative comments about [her]." Transcript at 14.

(6) Between April and October 2024, claimant tried to have a conversation with the coworker to reduce the tension between them at her manager's suggestion. The two met and shared things they found frustrating about one another. Following the conversation, claimant thought that she and the coworker had a "clean slate[.]" Transcript at 22.

(7) However, a few days after her conversation with the coworker, claimant received a call from her manager and a human resources (HR) representative. They advised that the coworker had reported the conversation to her manager and had stated that claimant had called the coworker "evil" during the conversation. Transcript at 22. Claimant told them that her manager had told her to have the conversation with the coworker, and the manager acknowledged doing so. The HR representative instructed claimant that, going forward, she was not to have any conversations with the coworker "outside of anything that has to do with the clients." Transcript at 22-23.

(8) In September 2024, claimant led a meeting with the coworker. Claimant's manager had asked the coworker to rate claimant based on her performance at the meeting. Claimant and the coworker agreed before the meeting for claimant to present a particular piece of information at the end of the meeting. Claimant did as the two agreed, which caused the meeting to run longer than planned. The meeting involved a client whose business was being acquired by new ownership and, before the meeting, claimant's manager had requested that claimant ask the new owner for their business. Claimant did so during the meeting. After the meeting, the coworker complained to claimant's manager that claimant had caused the meeting to run too long and that claimant had "bid" for the new owner's business. Transcript at 16.

(9) On October 17 or 18, 2024, the employer presented claimant with a final performance improvement plan. The plan contained the assertions that claimant had caused the meeting to run too long and that she had bid for the new owner's business, criticisms that were inaccurate or lacked important context.

(10) Claimant met with her manager and the HR representative about the mid-October 2024 final performance improvement plan and raised the fact that the coworker's critiques, documented in the plan, were inaccurate. The manager was "very adamant" that nothing in the plan would be changed. Transcript at 17. During the meeting, the HR representative told claimant that she "was one conversation away from losing [her] job[.]" Transcript at 18.

(11) Claimant's difficult working relationship with the coworker and the poor work performance ratings claimant received based on the coworker's inaccurate complaints affected claimant's mental and physical health. Claimant had difficulty sleeping and was "a nervous wreck all the time." Transcript at 19-20. Claimant's physician noted during an annual check-up that claimant's health "had declined quite a bit[.]" Transcript at 20. Claimant's family urged her to stop working for the employer due to the impacts on claimant's health.

(12) After the meeting with her manager and HR representative about the mid-October 2024 plan, claimant decided that she needed to resign. On November 1, 2024, claimant informed the employer that she was resigning effective that day.

(13) Claimant did not ask her manager to address her difficulties with the coworker prior to resigning, as she did not feel her manager would listen to her complaints. Claimant had complained to her manager about the coworker without success in December 2023 and attributed the employer placing her on the April 2024 performance improvement plan to the fact that she had made that complaint. Claimant also did not ask the employer's HR representative for help in addressing her difficulties with the coworker before she resigned.

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.

The order under review concluded that claimant voluntarily quit work without good cause. Order No. 25-UI-282279 at 2. The order reasoned that claimant's situation was grave but that claimant had not pursued reasonable alternatives prior to quitting, because claimant did not ask an HR representative or a senior manager higher than claimant's manager to address her difficulties with the coworker. Order No. 25-UI-282279 at 2. The record does not support the conclusion that claimant failed to pursue reasonable alternatives to quitting.

At hearing, claimant testified that she “resigned due to a hostile work environment” and that she “just couldn’t work in the same office with [the coworker] any longer.” Transcript at 5, 20. Claimant also testified that she “knew” she needed to resign when, during the meeting in which claimant raised the inaccurate critiques from the coworker that were contained in the mid-October 2023 performance improvement plan, the HR representative stated that claimant was “one conversation away from losing [her] job.” Transcript at 18. The preponderance of the evidence therefore shows that claimant quit due to her difficult working relationship with the coworker and the poor work performance ratings claimant received based on the coworker’s inaccurate complaints.

Claimant faced a grave situation. Her difficult working relationship with the coworker and the poor work performance ratings she received based on the coworker’s inaccurate complaints affected her mental and physical health. Claimant had difficulty sleeping and was “a nervous wreck all the time.” Transcript at 19-20. Claimant’s physician noted during an annual check-up that claimant’s health “had declined quite a bit” during the year leading to claimant’s November 1, 2024, resignation. Claimant’s family urged her to stop working for the employer due the impacts on her health.

Claimant pursued alternatives to quitting work but those efforts were not successful. Claimant complained about the coworker to her manager in December 2023, but no action was taken, and claimant attributed the employer placing her on the April 2024 performance improvement plan to the fact that she had made that complaint. Between April and October 2024, claimant attempted to reduce the tension with the coworker by having a conversation with her. However, the coworker reported the conversation to her manager and claimant was later instructed by an HR representative not to have any conversations with the coworker “outside of anything that has to do with the clients.” Transcript at 22-23. Claimant met with her manager and the HR representative about the mid-October 2024 final performance improvement plan and raised the inaccurate critiques from the coworker that were documented in the plan. However, the manager was “very adamant” that nothing in the plan would be changed, and the HR representative told claimant that she “was one conversation away from losing [her] job[.]” Transcript at 18. Transcript at 17.

Given that no action was taken by the manager following claimant’s December 2023 complaint, as well as the fact that the manager told claimant that the coworker’s inaccurate critiques would not be removed from the mid-October 2024 final performance improvement plan, the record shows that it would have likely been fruitless for claimant to ask her manager, or manager higher in the chain of command, to address the coworker prior to claimant’s resignation. Likewise, more likely than not, it would have been fruitless for claimant to ask the HR representative to address the coworker, given the HR representative’s comment that claimant “was one conversation away from losing [her] job” in response to claimant having raised the inaccurate critiques from the coworker that were documented in the mid-October plan. Transcript at 18. Additionally, efforts to request a transfer or permission to work from home as a means to avoid working in the same office as the coworker would, more likely than not, also have been fruitless. Claimant had requested permission to work remotely for a week in February 2024 to “get reset” and avoid working with the coworker, and her manager denied that request. Transcript at 6.

Thus, the record shows that claimant quit working for the employer for a reason of such gravity that she had no reasonable alternative but to quit. Claimant therefore voluntarily left work with good cause and is not disqualified from receiving unemployment insurance benefits based on the work separation.

DECISION: Order No. 25-UI-282279 is set aside, as outlined above.

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

DATE of Service: March 20, 2025

NOTE: This decision reverses the ALJ's order denying claimant benefits. Please note that in most cases, payment of benefits owed will take about a week for the Department to complete.

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.surveygizmo.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.



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.

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