

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0120

Reversed & Remanded

PROCEDURAL HISTORY: On December 18, 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 March 5, 2023 (decision # L0007746532).¹ Claimant filed a timely request for hearing. On January 28, 2025, ALJ Lucas conducted a hearing at which the employer failed to appear, and on January 30, 2025, issued Order No. 25-UI-281552, affirming decision # L0007746532.² On February 19, 2025, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant's argument contained information that was not part of the hearing record and did not show that factors or circumstances beyond claimant's reasonable control prevented him 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 any parts of claimant's argument that were based on the hearing record.

The parties may offer new information such as that included in the written argument into evidence at the remand hearing. At that time, it will be determined if the new information will be admitted into the record. The parties must follow the instructions on the notice of the remand hearing regarding documents they wish to have considered at the hearing. These instructions will direct the parties to provide copies of such documents to the ALJ and the other parties in advance of the hearing at their addresses as shown on the certificate of mailing for the notice of hearing.

¹ Decision # L0007746532 stated that claimant was denied benefits effective December 1, 2024. However, because decision # L0007746532 asserted that claimant quit work on March 10, 2023, it should have stated that claimant was disqualified from receiving benefits beginning Sunday, March 5, 2023, and until he earned four times his weekly benefit amount. See ORS 657.176.

² Order No. 25-UI-281552 stated that it affirmed decision # L0007746532, but that the disqualification from benefits was effective March 10, 2024. Order No. 25-UI-281552 at 3. The incorrect date is presumed to be a scrivener's error.

FINDINGS OF FACT: (1) Core Power Yoga, LLC employed claimant as a yoga instructor from October 2016 through March 10, 2023. In 2023, claimant worked 15 hours per week and was paid \$22 per hour.

(2) In March 2023, claimant also worked for two other employers while working for the employer.

(3) Shortly before March 10, 2023, claimant was offered a job by a new employer, Albertina-Kerr, that paid \$20 per hour and offered 35 hours per week on a permanent basis. Claimant verbally accepted the offer with details about his start date to follow in an email. Claimant had passed a background check prior to the offer being made and agreed to provide proof of a required vaccination. There were no other contingencies on the new job offer.

(4) On March 10, 2023, before learning what the start date would be for the Albertina-Kerr job, claimant gave notice to the employer of his resignation with immediate effect.

(5) On April 1, 2023, claimant began working for Albertina-Kerr.

CONCLUSIONS AND REASONS: Order No. 25-UI-281552 is set aside and the matter remanded for further proceedings.

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.

A claimant who leaves work to accept an offer of other work “has left work with good cause only if the offer is definite and the work is to begin in the shortest length of time as can be deemed reasonable under the individual circumstances. Furthermore, the offered work must reasonably be expected to continue, and must pay [either] an amount equal to or in excess of the weekly benefit amount; or an amount greater than the work left.” OAR 471-030-0038(5)(a).

The order under review concluded that claimant quit work to accept an offer of other work that was definite, reasonably expected to continue, and paid more than the work left, but that he did not begin the new work in the shortest length of time that was reasonable under the circumstances. Order No. 25-UI-281552 at 3. The record supports that the offer of other work was definite, reasonably expected to continue, and paid more than the work left. However, further development of the record is needed to determine whether claimant began the new work in the shortest length of time that was reasonable under the circumstances.

Claimant testified that on March 10, 2023, he gave notice to the employer of his resignation with immediate effect, based on his having accepted a new position with Albertina-Kerr. Audio Record at

10:48. Claimant further testified that the new job would pay more, with a rate of \$20 for 35 hours per week, as compared to \$22 for 15 hours per week with the employer.³ Audio Record at 15:45, 17:42. Claimant maintained that he had satisfied all contingencies of the offer, such as passing a background check, before the offer was made, and that the new job was expected to continue indefinitely. Audio Record at 20:16. Therefore, claimant has shown that the offer of other work was definite, reasonably expected to continue, and paid more than the work left.

However, claimant testified that he quit working for the employer before he knew the exact start date of the new job, and ultimately started working for Albertina-Kerr on April 1, 2023. Audio Record at 16:58. When asked at hearing why claimant quit working for the employer without knowing the start date of the new job, he testified, “I had two other jobs at the same time and the way that the yoga schedule works I wasn’t working every single day so I had a gap in between my weeks.” Audio Record at 22:00. It is unclear from this testimony what effect claimant’s other jobs had on his ability to continue working for the employer between March 10, 2023, and April 1, 2023, but it is reasonable to infer that claimant was asserting that scheduling concerns played a role in his decision to quit working for the employer when he did. These other employment obligations are circumstances that should be considered in determining the reasonableness of the length of time claimant allowed between leaving the employer and starting the new job.

On remand, inquiry should be made as to the details of claimant’s other employment in March 2023, the schedules of those jobs and the job with the employer, whether the hours varied, and whether the schedules of other jobs would have conflicted with claimant’s work for the employer had he remained in their employ later than March 10, 2023. Additional consideration should be given to the total weekly hours claimant would have worked during this period between the three jobs if he had not quit working for the employer when he did, particularly if he expected his hours to increase at one or both other jobs. Any other factors relating to the reasonableness of the length of time between jobs should also be explored.

ORS 657.270 requires the ALJ to give all parties a reasonable opportunity for a fair hearing. That obligation necessarily requires the ALJ to ensure that the record developed at the hearing shows a full and fair inquiry into the facts necessary for consideration of all issues properly before the ALJ in a case. ORS 657.270(3); *see accord Dennis v. Employment Division*, 302 Or 160, 728 P2d 12 (1986). Because further development of the record is necessary for a determination of whether claimant quit work with good cause, Order No. 25-UI-281552 is reversed, and this matter is remanded.

DECISION: Order No. 25-UI-281552 is set aside, and this matter remanded for further proceedings consistent with this order.

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

DATE of Service: March 20, 2025

³ \$20 times 35 hours = \$700; \$22 times 15 hours = \$330.

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 25-UI-281552 or return this matter to EAB. Only a timely application for review of the subsequent order will cause this matter to return to EAB.

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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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