

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0128

Affirmed
No Disqualification

PROCEDURAL HISTORY: On January 2, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer with good cause and was not disqualified from receiving benefits based on the work separation (decision # L0008050892). The employer filed a timely request for hearing. On February 10, 2025, ALJ Hall conducted a hearing, and on February 12, 2025, issued Order No. 25-UI-282988, affirming decision # L0008050892. On February 28, 2025, the employer filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Lowe's Home Centers LLC employed claimant from December 15, 2023, until March 11, 2024. Claimant worked as a sales associate in the lumber department of the employer's store located in Tigard, Oregon.

(2) In 2011, claimant was diagnosed with Post Traumatic Stress Disorder (PTSD) resulting from combat deployments during his service in the military. Claimant received treatment to address the PTSD from a psychiatrist and a therapist.

(3) On March 8, 2024, a coworker became hostile toward claimant, berating him and following him around the store. This interaction triggered symptoms of claimant's PTSD, which included hypervigilance, feelings of unease, and an increase in his anxiety. Claimant went into "high alert" and decided to eat his lunch in his car, rather than the break room, to avoid the coworker. Transcripts at 12. Claimant reported the incident to his supervisor that day. The supervisor told claimant not to worry about it because the coworker was grumpy and not many people got along with him.

(4) On March 9, 2024, the same coworker confronted claimant in the store, stared at him, and said, "why are you here?" Transcript at 6. Claimant asked if the coworker had any problems, and the coworker replied, "yes, I do have a problem." Transcript at 6. Claimant's supervisor witnessed this encounter and spoke with his "higher up" about it. Transcript at 7. The supervisor's higher up told the supervisor that no action could be taken that day because there were corporate representatives touring the store.

(5) On March 10, 2024, claimant called out sick for his scheduled shift. Claimant did so because of the mental health symptoms related to his PTSD that he experienced following his interactions with the coworker. Claimant “didn’t feel safe” and viewed the employer as having disregarded his concerns about the coworker. Transcript at 7.

(6) On March 11, 2024, claimant came to work and spoke with the store’s scheduling and staffing administrator. The employer did not have an in-store human resources worker and claimant believed the administrator was the store’s equivalent to a human resources representative. During his conversation with the administrator, claimant raised his interactions with the coworker. The administrator told claimant that the coworker would be leaving the store at the end of March, and not to worry about him.

(7) On March 11, 2024, after speaking with the administrator, claimant resigned. Claimant did so because the interactions with the coworker had triggered his PTSD symptoms and he determined that, despite having raised the matter with his supervisor and the administrator, the employer did not intend to do anything because the coworker would be leaving the store at the end of March.

(8) After claimant stopped working for the employer, his PTSD symptoms subsided and his mental health improved.

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). Claimant had PTSD, a permanent or long-term “physical or mental impairment” as defined at 29 CFR §1630.2(h). A claimant with an impairment who quits work must show that no reasonable and prudent person with the characteristics and qualities of an individual with such an impairment would have continued to work for their employer for an additional period of time.

The record shows that claimant had good cause to leave work when he did. Claimant faced a grave situation. On March 8, 2024, claimant’s coworker berated claimant and followed him around the store. The interaction triggered claimant’s PTSD symptoms, causing him to become hypervigilant and increasing his anxiety. The next day, the coworker again addressed claimant in a threatening manner, confronting claimant in the store, staring at him, and saying to claimant, “why are you here?” and “yes, I do have a problem.” Transcript at 6. On March 10, 2024, claimant called out sick because of the mental health symptoms related to his PTSD that he experienced following his interactions with the coworker. As of March 11, 2024, claimant faced the prospect of having to continue to work with the coworker for another three weeks, as the administrator had told claimant that the coworker would be leaving the store at the end of March. Continuing to work with the coworker for another three weeks could have worsened claimant’s PTSD symptoms significantly. The evidence is sufficient to conclude that claimant’s situation was grave when viewed from the perspective of a reasonable and prudent person with the characteristics and qualities of an individual with PTSD.

Claimant pursued reasonable alternatives to quitting work without success. Claimant reported the coworker's treatment of him on March 8, 2024, to his supervisor, and the supervisor merely said not to worry about it because the coworker was grumpy and not many people got along with him. On March 9, 2024, claimant's supervisor witnessed the coworker confronting claimant in the store, staring at him, and saying to claimant, "why are you here?" and "yes, I do have a problem." The supervisor spoke with his "higher up" about the incident but no action was taken against the coworker. Transcript at 7. On March 11, 2024, claimant mentioned his issues with the coworker to the scheduling and staffing administrator of the employer's store, and the administrator told claimant that the coworker would be leaving the store at the end of March, and not to worry about him. Thus, claimant pursued the alternatives of requesting the employer to address the coworker's behavior but those efforts were not successful. More likely than not, further efforts on claimant's part to convince the employer to act against the coworker would have been futile because, as the administrator informed claimant that the coworker would be leaving the store at the end of March, the employer likely intended to take no action and allow the situation to resolve itself with the coworker's eventual departure.

For these reasons, claimant established that he faced a situation of such gravity that he had no reasonable alternative but to leave work when he did. 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-282988 is affirmed.

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

DATE of Service: March 27, 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 دستورالعمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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