

**EMPLOYMENT APPEALS BOARD DECISION**  
**2025-EAB-0135**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On November 20, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause and was disqualified from receiving benefits effective November 10, 2024 (decision # L0007345364).<sup>1</sup> Claimant filed a timely request for hearing. On February 5, 2025, ALJ Ensign conducted a hearing, and on February 10, 2025, issued Order No. 25-UI-282542, modifying decision # L0007345364 by concluding that claimant quit work without good cause and was disqualified from receiving benefits effective November 3, 2024. On March 1, 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 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 any parts of claimant's argument that were based on the hearing record.

**FINDINGS OF FACT:** (1) GLV Enterprises, Inc. employed claimant as a design consultant in their remodeling business from February 2, 2019, to November 3, 2024.

(2) Claimant's wages were entirely based on commission from sales. The employer did not alter claimant's commission rate during her employment.

(3) In claimant's approximately first four to five years of employment, she earned "roughly around \$215,000" per year. Transcript at 6. For the approximately six months from mid-September 2023

<sup>1</sup> Decision # L0007345364 stated the claimant was denied benefits from November 10, 2024, to November 8, 2025. However, because decision # L0007345364 found that claimant quit work on November 3, 2024, it should have stated that claimant was denied benefits from Sunday, November 3, 2024, and until she earned four times her weekly benefit amount. See ORS 657.176.

through mid-March 2024, claimant earned approximately \$73,000. Claimant took a medical leave of absence from mid-March 2024 through August 2024. From August 2024 when she returned to work, through November 3, 2024, claimant earned approximately \$20,315.<sup>2</sup> The employer had an overall decrease in sales corresponding with claimant's decrease in sales and commissions.

(4) The employer attributed their declining sales to macroeconomic conditions affecting remodeling businesses nationwide. While claimant was on leave, the employer hired two additional sales representatives that claimant would, in essence, compete with for potential sales upon her return. Claimant felt that the employer's decision to hire additional salespeople while sales were declining was imprudent for the business and impaired her ability to earn commission. Claimant also felt that the employer was not doing enough to generate sales leads, though the employer believed that they "put a ton of effort and money into marketing" and were "constantly trying to generate leads to give sales reps appointments." Transcript at 17.

(5) By November 3, 2024, claimant was dissatisfied with the decreased sales and commissions, and felt that her earnings were insufficient to maintain her and her family's lifestyle. Claimant was in discussions with two other potential employers to work for them in sales or management, but did not have an offer of employment from them. That day, claimant gave written notice to the employer of her resignation, with immediate effect, citing her dissatisfaction with decreasing sales and commissions and mentioning the discussions with other potential employers.

**CONCLUSIONS AND REASONS:** Claimant quit work without 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.

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).

A claimant who leaves work due to a reduction in pay has left work without good cause unless "the newly reduced rate of pay is ten percent or more below the median rate of pay for similar work in the individual's normal labor market area. The median rate of pay in the individual's labor market shall be determined by employees of the Employment Department adjudicating office using available research

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<sup>2</sup> Claimant testified that her commission rate was 8.5 percent and that she made \$239,000 in sales during this period. Transcript at 12-13.  $\$239,000 \times .085 = \$20,315$ .

data compiled by the department.” OAR 471-030-0038(5)(d). An employer does not reduce the rate of pay for an employee by changing or eliminating guaranteed minimum earnings, by reducing the percentage paid on commission, or by altering the calculation method of the commission. OAR 471-030-0038(5)(d)(B).

Per OAR 471-030-0038(5)(b), leaving work without good cause includes leaving suitable work to seek other work. 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.

Claimant quit working for the employer due to a decline in sales and resulting commissions, as she explained in her resignation letter. Claimant also wrote in the letter, “I’ve been actively recruited for a sales director level position as well as a district manager job with a former colleague,” which suggests that this circumstance may also have been part of claimant’s reason for quitting. Transcript at 20. However, claimant testified that she had not received a “solid offer” from these potential employers at the time of her resignation, and was ultimately unable to agree on terms of employment, so a definite job offer was never made. Transcript at 9-10. Claimant therefore did not leave work to accept an offer of other work, and OAR 471-030-0038(5)(a) is inapplicable to the analysis.

Claimant did not assert that her continued employment with the employer would have impeded her ability to find other work, or that devoting more time to seeking other employment was a motivating factor in her decision to resign. To the contrary, that claimant was “actively recruited” by at least two other potential employers while still working for the employer suggests that claimant did not resign for the purpose of seeking other work, as these recruitments demonstrated that she was capable of seeking other work while remaining employed. Claimant therefore did not leave work to seek other work, and OAR 471-030-0038(5)(b) is inapplicable to the analysis. Moreover, even if claimant had left work to seek other work, she did not assert that the work left was unsuitable except with regard to pay. As discussed in greater detail below, claimant was earning the annualized equivalent of \$81,260 at the time she resigned. While claimant felt that this level of earnings was insufficient to sustain her living expenses, it did not render the work unsuitable under the provisions of ORS 657.190, given the variability of earnings in jobs that are entirely commission-based.

Further, claimant’s compensation was entirely based on commission, and the record shows that claimant’s commission rate—the percentage she earned from each sale—remained unchanged throughout her employment. Claimant therefore did not leave work due to a reduction in the *rate* of pay, and OAR 471-030-0038(5)(d) is inapplicable to the analysis. Because claimant’s reason for quitting work was her dissatisfaction with the decline in sales and commissions, it is appropriately the subject of the gravity analysis.

The record shows that beginning in approximately September 2023, claimant experienced a significant decline in sales and commissions. Claimant earned approximately \$215,000 per year from 2019 through late 2023, but earned approximately \$73,000 from mid-September 2023 through mid-March 2024 (the equivalent of \$146,000 if considered on an annual basis). Claimant’s earnings continued to decline after

her return from a six-month medical leave that began in mid-March 2024, to approximately \$20,315 for the three-month period of August through October 2024, or \$81,260 on an annualized basis. The employer's chief financial officer testified that the decline in claimant's sales numbers coincided with a decline in the business' overall sales, and a wider trend of declining remodeling sales throughout the country. Transcript at 15. However, claimant faulted the employer for what she felt were limited opportunities to make sales, specifically their hiring of two salespeople while she was on leave, and insufficient marketing and lead-generation efforts.

Regardless of whether the decline in sales was the result of the employer's hiring and marketing decisions or prevailing economic trends, the decline did not constitute a grave situation. Claimant did not assert, and the evidence does not otherwise suggest, that the employer was intentionally impeding claimant's ability to make sales or earn commissions. It is reasonable to infer that the success of the employer's business was dependent on the success of their salespeople, including claimant, and that claimant and the employer therefore had a shared interest in increasing sales. The parties disagreed on how best to achieve that increase when it came to matters such as staffing levels and marketing, but such disagreements would not cause a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, to leave work.

Similarly, while claimant's overall compensation had decreased significantly from prior years, she was still earning the annualized equivalent of over \$80,000 at the time of her resignation. While claimant asserted that this level of income was insufficient to support the lifestyle to which she and her family had grown accustomed during years of greater earnings, a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would not forego these earnings in favor of quitting and earning no income. Accordingly, claimant did not quit work due to a grave situation, and she therefore did so without good cause.

For these reasons, claimant quit work without good cause and is disqualified from receiving unemployment insurance benefits effective November 3, 2024.

**DECISION:** Order No. 25-UI-282542 is affirmed.

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

**DATE of Service:** March 28, 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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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 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**

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Website: [www.Oregon.gov/employ/pages/employment-appeals-board.aspx](http://www.Oregon.gov/employ/pages/employment-appeals-board.aspx)

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