

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0139

Reversed
No Disqualification

PROCEDURAL HISTORY: On December 16, 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 October 20, 2024 (decision # L0007653679).¹ Claimant filed a timely request for hearing. On February 7, 2025, ALJ Murray conducted a hearing at which the employer failed to appear, and on February 20, 2025, issued Order No. 25-UI-283543, affirming decision # L0007653679. On March 3, 2025, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: EAB considered claimant's argument in reaching this decision.

FINDINGS OF FACT: (1) Albertsons, LLC employed claimant as a floral department manager from September 28, 2023, through October 23, 2024.

(2) Claimant began her employment at a store in Bend, Oregon. In 2024, claimant requested a transfer to a store in Colorado to be closer to her son, who lived in that state. In July 2024, the employer granted claimant a transfer to the employer's store in Estes Park, Colorado and claimant continued to work as a floral department manager there.

¹ Decision # L0007653679 stated that claimant was denied benefits from November 10, 2024, to November 8, 2025. However, because decision # L0007653679 concluded that the work separation occurred on October 23, 2024, the decision should have stated that claimant was disqualified from receiving benefits beginning Sunday, October 20, 2024, and until she earned four times their weekly benefit amount. *See* ORS 657.176.

(3) Upon transferring, claimant resided at her son's home, which was an approximately 1.5-hour drive from the store. Claimant intended to quickly secure housing in or near Estes Park but was unable to find any apartment for rent that she could afford. From July 2024 through October 2024, claimant requested transfers to the employer's other Colorado stores in areas with more affordable housing, including a store in Firestone, Colorado.

(4) On October 10, 2024, claimant discussed a limited-duration job opportunity as an insurance adjuster with a former employer. Claimant knew the approximate rate of pay the position would offer and that the work would likely take place in another state. However, claimant would not be given the start date, precise location, or other specific details of the work for some time after the offer of work was accepted. Claimant intended to accept the offer due to her inability to find housing near Estes Park and the resulting lengthy commute to work for the employer.

(5) On October 12, 2024, while commuting to work, claimant encountered deer suddenly crossing the road in front of her car as she drove, and saw that three collisions had taken place along a "treacherous" stretch of mountain road. Transcript at 18. Claimant believed that driving conditions on this route would soon worsen as winter approached. When claimant arrived at work that day, claimant gave notice of her resignation, effective October 23, 2024, due to the commute and her inability to secure housing closer to work.

(6) On October 20, 2024, the manager of the employer's Firestone, Colorado store called claimant and told her that they would approve her request to transfer to that store, which had previously been denied. The parties agreed that claimant would begin as floral manager at that store on October 27, 2024. As a result, claimant decided she no longer intended to accept the insurance adjuster job and immediately notified the potential employer that she was no longer interested in the position.

(7) On October 21, 2024, the Firestone store manager called claimant and rescinded the transfer approval, citing the objection of the person overseeing the floral departments in the region. Claimant believed that the transfer was rescinded in an effort to keep her in the Estes Park store because it would be difficult to hire a replacement at that location. Later that day, claimant sent emails to the employer and her union representative protesting the rescinding of the transfer. Claimant did not receive a response by October 23, 2024.

(8) On October 23, 2024, claimant stopped working for the employer per the terms of her October 12, 2024, resignation letter. Claimant did not desire to continue working for the employer as floral manager of the Estes Park store at that time due to her commute and inability to secure local housing.

CONCLUSIONS AND REASONS: Claimant voluntarily quit 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. Per OAR 471-030-0038(5)(f), where the gravity of the situation experienced by the individual results from his or her own deliberate actions, to determine whether good cause exists, the actions of the individual in creating the grave situation must be examined in accordance with the provisions of OAR 471-030-0038(4).

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).

Claimant quit working for the employer because she could not secure housing within a reasonable distance of the store at which she worked, the three-hour round-trip commute from her son’s home was becoming too onerous as winter approached, and the employer would not transfer her to a closer store. The order under review concluded that while these reasons were grave, the gravity resulted from claimant’s deliberate actions, and that among claimant’s reasons for quitting work was to accept an offer of new employment under circumstances that did not amount to good cause. Order No. 25-UI-283543 at 5. The record does not support these conclusions. Instead, it shows that claimant did not quit to accept an offer of other work, and her reasons for quitting relating to housing and commuting amounted to good cause.

The relevant period to analyze whether an individual left work with good cause is the date the individual left work, not when the individual gave notice or another prior date. *Roadhouse v. Employment Department*, 283 Or App 859, 391 P3d 887 (2017). On October 12, 2024, claimant gave notice of her intent to resign effective October 23, 2024. Claimant had been in discussions with a potential employer, for whom she had previously worked, about the possibility of working for them in a limited-duration position. As of October 10, 2024, claimant intended to pursue that position. While the possibility of obtaining other work may have been a factor in claimant’s decision to give notice of her resignation on October 12, 2024, claimant notified the potential employer on October 20, 2024, that she was no longer interested in the position, and the record does not suggest that claimant intended to pursue it further as of October 23, 2024 when she quit working for the employer. Therefore, claimant did not leave work to accept an offer of other work, and OAR 471-030-0038(5)(a) is inapplicable to the good cause analysis in this case.

Claimant’s difficulties in securing housing within a reasonable proximity of the Estes Park store, and her resulting three-hour commute each workday, were circumstances faced by claimant both at the time she gave notice of her resignation and at the time it became effective. Claimant had requested the transfer from Bend to Estes Park with plans to temporarily commute to work from her son’s home until she secured housing in or near Estes Park. Claimant learned only after transferring and applying to rent apartments in Estes Park that no apartments were available that she was qualified to rent based on her income from the employer. When claimant was granted the transfer in July 2024, she did not reasonably expect that she would still be commuting three hours per day between her son’s home and work in late October 2024 as impending winter weather threatened to make the commute longer and more dangerous. Further, the employer’s decision to grant then rescind approval for claimant to transfer to a different store, which would likely have resolved claimant’s housing and commute difficulties,

contributed to the gravity of the situation claimant faced at the time she quit working. A reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would leave work when faced with these circumstances, which were the result of independent intervening causes following claimant's transfer from Bend. Therefore, claimant faced a grave situation that did not result from her own deliberate actions.

Moreover, claimant had no reasonable alternative to quitting work. Claimant testified that she "had applied for different apartments . . . [and] work housing" in the Estes Park area but there "was a seven month wait to even possibly get your name in." Transcript at 8. Claimant further testified that she found one apartment complex in the area with vacancies, but she did not earn enough income to qualify to rent a one-bedroom apartment there. Transcript at 8. Shortly after arriving in Colorado in July 2024 and discovering that she would be unable to secure housing in the vicinity of Estes Park, claimant began requesting transfers to other stores in the state, and pursued those transfers through her last day of work. For various reasons beyond claimant's control, the employer did not select claimant to transfer to those vacancies, including a transfer that they granted but then rescinded before it became effective. Claimant protested the rescission of this transfer, but did not receive a response from the employer or her union prior to the effective date of her previously given resignation. It is therefore reasonable to infer that any further attempts to transfer to another store or secure local housing would have been futile, at least in the immediate future. Accordingly, because claimant faced a grave situation and had no reasonable alternative to leaving work, claimant quit work with good cause.

For these reasons, claimant voluntarily quit work with good cause and is not disqualified from receiving unemployment insurance benefits based on the work separation.

DECISION: Order No. 25-UI-283543 is set aside, as outlined above.

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

DATE of Service: April 3, 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 دستور العمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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