

**EMPLOYMENT APPEALS BOARD DECISION**  
**2025-EAB-0142**

*Reversed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On December 17, 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 24, 2024 (decision # L0007829058).<sup>1</sup> Claimant filed a timely request for hearing. On February 13, 2025, ALJ Hall conducted a hearing at which the employer failed to appear, and on February 21, 2025, issued Order No. 25-UI-283835, modifying decision # L0007829058 by concluding that claimant quit without good cause and was disqualified from receiving benefits effective November 10, 2024. On March 1, 2025, claimant filed an application for reviewing with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** Claimant submitted a written argument on March 11, 2025. 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.

The employer submitted a written argument on March 25, 2025. The employer's argument contained information that was not part of the hearing record and did not show that factors or circumstances beyond the employer's reasonable control prevented them from appearing at the hearing and offering the information at that time. Under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB considered only information received into evidence at the hearing.

**FINDINGS OF FACT:** (1) Parker B. Mah Chiropractic PC employed claimant as a chiropractic assistant, most recently from August 2021 until November 14, 2024.

<sup>1</sup> Decision # L0007829058 stated that claimant was denied benefits from November 24, 2024 to November 22, 2025. However, decision # L0007829058 should have stated that claimant was disqualified from receiving benefits beginning Sunday, November 24, 2024 and until she earned four times her weekly benefit amount. See ORS 657.176.

(2) During claimant's employment, she frequently worked through her morning and afternoon rest breaks. The employer's owner did not specifically direct claimant to not take her breaks. However, claimant skipped the breaks because the owner often made her "feel bad" for taking them, by, for example, constantly monitoring her to make sure she was working or looking at her as if she was doing something wrong when she made phone calls on her breaks. Audio Record at 12:54 to 14:15. The owner also brought his dog to work, and required claimant to clean up after the dog. As a result, claimant had to stop her work and "clean up dog poop and pee throughout the day" during her employment. Audio Record at 11:17.

(3) The conditions under which claimant worked, including the skipped rest breaks and requirement to clean up dog feces and urine, caused claimant stress. Claimant's stress induced her to develop a rash when she worked. Claimant found that when the employer's clinic was closed or she otherwise was not working, the rash went away. Claimant saw a dermatologist for the rash, who advised that the cause was indefinite but could be stress related. The rash was very itchy and interfered with claimant's sleep unless she took medication. Heat made the rash worse, and it was particularly uncomfortable when it appeared on claimant's feet. Wearing open-toed shoes eased the discomfort when the rash appeared on claimant's feet, and the owner allowed claimant to wear sandals on those occasions.

(4) During her employment, claimant and other workers brought up with the owner aspects of the conditions under which they worked. Claimant found that when this occurred, the owner "would do better for a little while" but with time "would return . . . to how he was acting before." Audio Record at 14:41 to 15:28.

(5) On November 14, 2024, around mid-day, claimant and the employer's owner discovered that the employer's website was unavailable. The owner blamed claimant for the website's status, and told claimant to work on fixing the problem, even if she was clocked out of work, because "if you break it, you pay for it." Audio Record at 6:11. Claimant had a lunch break coming up and took the owner's comment to mean that she had broken the website and so had to work on fixing it while clocked out for lunch and would not get paid for the time that she worked during her break.

(6) The website's unavailability may have been claimant's fault or may have been a result of the owner not paying domain fees. Claimant told the owner that she did not cause the website to be unavailable on purpose. The owner replied, "[I]t doesn't matter. It's the same as if you broke it, you pay for it." Audio Record at 7:13. The owner had not asked claimant to work off the clock before.

(7) Claimant called and spoke with an information technology worker about the website, and then clocked out for lunch. The owner called and spoke with the website's designer. Claimant remained clocked out as the owner conversed with the designer. The owner completed the call, and claimant, while still clocked out, met with him and told him about her conversation with the information technology worker.

(8) Claimant thought about the situation and determined that the owner was likely to have her work while clocked out again, and that the owner's command that she work while clocked out combined with her working conditions as a whole justified voluntarily leaving work. Claimant told the owner she was resigning, packed her things, and stopped working for the employer.

**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 left work without good cause. Order No. 25-UI-283835 at 2. The order reasoned that claimant was not presented with a situation of such gravity that she had no reasonable alternative but to quit. Order No. 25-UI-283835 at 2. The record does not support this conclusion.

At hearing, claimant testified that she voluntarily left work because she determined that the owner was likely to have her work while clocked out again, and she believed that the owner’s command that she work while clocked out combined with her working conditions as a whole justified voluntarily leaving work. Audio Record at 9:33 to 10:00. Claimant established good cause to quit work based on these reasons.

Claimant faced a grave situation. The record shows that during her employment, claimant frequently worked through her rest breaks because the owner made her “feel bad” for taking them, by, for example, constantly monitoring her to make sure she was working or looking at her as if she was doing something wrong when she made phone calls on her breaks. Audio Record at 12:54 to 14:15. The owner also required claimant to clean up after his dog, and during her employment, claimant often had to stop her work and “clean up dog poop and pee throughout the day.” Audio Record at 11:17. These conditions caused claimant to develop a stress-induced rash that was very itchy and interfered with claimant’s sleep unless she took medication. When the employer’s clinic was closed or claimant otherwise was not working, the rash went away. These facts are considered alongside the employer’s November 14, 2024, command that claimant work while she was clocked out, a practice that was illegal because employees are entitled by law to be paid for all time worked and to not be required to work while on break. The employer’s unlawful requirement that claimant work while clocked out considered together with claimant’s frequently skipped rest breaks, having to clean up dog feces and urine throughout the day, and the rash induced by work stress, presented claimant with a grave situation.

The alternative to quitting of asking the owner to not require claimant to work off the clock, and to improve working conditions by not pressuring claimant to skip breaks or require her to clean up dog feces and urine was, more likely than not, futile to pursue. This is so because during her employment, claimant and other workers brought up with the owner aspects of the conditions under which they worked. Claimant found that when this occurred, the owner “would do better for a little while” but with time “would return . . . to how he was acting before.” Audio Record at 14:41 to 15:28. Thus, although claimant did not ask the owner to not require her to work off the clock or improve working conditions immediately before she quit, the weight of the evidence supports it would have been futile for

her to do so. Therefore, making those efforts was not a reasonable alternative to leaving work, and claimant was not required to pursue them to establish good cause for leaving work.

For these reasons, claimant had no reasonable alternative but to leave work when she 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-283835 is set aside, as outlined above.

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

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

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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.

**Employment Appeals Board - 875 Union Street NE | Salem, OR 97311**

Phone: (503) 378-2077 | 1-800-734-6949 | Fax: (503) 378-2129 | TDD: 711

Email: [appealsboard@employ.oregon.gov](mailto:appealsboard@employ.oregon.gov)

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