

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0195

Reversed
No Disqualification

PROCEDURAL HISTORY: On February 11, 2025, 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 November 24, 2024 (decision # L0009279851).¹ Claimant filed a timely request for hearing. On March 10, 2025, ALJ Murray conducted a hearing, and on March 12, 2025, issued Order No. 25-UI-285716, affirming decision # L0009279851. On March 28, 2025, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Cardinal Employer Organization, Inc. (“Cardinal”) and RK Petroleum jointly employed claimant as the manager of a gas station owned by RK Petroleum from January 1, 2024, through November 28, 2024. Cardinal paid claimant’s wages and made required contributions to the unemployment insurance program based on his wages, while RK Petroleum provided and managed claimant’s day-to-day work.²

(2) Claimant had contentious relationships with his supervisor and the station’s assistant store manager. The assistant store manager would often direct complaints or suggestions to claimant’s supervisor rather than to claimant in what claimant felt were efforts to undermine his authority. Claimant’s supervisor would allow the assistant manager to do so. Claimant’s supervisor would frequently “berate[]” claimant and threaten to discharge him without cause and replace him with someone who would work for less

¹ Decision # L0009279851 stated that claimant was denied benefits from November 24, 2024 to December 6, 2025. However, decision # L0009279851 should have stated that claimant was disqualified from receiving benefits beginning Sunday, November 24, 2024, and until he earned four times his weekly benefit amount. *See* ORS 657.176.

² Cardinal is the relevant employing unit for purposes of determining whether the work separation is disqualifying. *See* ORS 657.267(2), which provides: “If the claim is denied under any provision of ORS 657.176, written notice of the decision must be given to the employing unit, or to the agent of the employing unit, that, in the opinion of the Director of the Employment Department, is most directly involved with the facts and circumstances relating to the disqualification.”

pay. Audio Record at 8:35. The supervisor would also frequently call claimant “stupid” and “idiot,” which claimant found offensive. Audio Record at 10:34.

(3) RK Petroleum would not allow claimant to staff the gas station such that he would have coverage to take rest or lunch breaks during his shifts, and he was permitted to take restroom breaks only as the volume of customers at the station permitted.

(4) On one occasion during his employment, claimant approached RK Petroleum’s owner to complain about these points of dissatisfaction with the work environment. The owner’s response to claimant’s complaints was that he should “suck it up and deal with it.” Audio Record at 12:35 to 13:10. RK Petroleum did not have a human resources department or any other managers to whom claimant could complain. Claimant was not aware that Cardinal was also considered his employer and thought that they only handled payroll on behalf of RK Petroleum, whom he considered his sole employer. Claimant therefore did not attempt to contact Cardinal with his complaints. Had claimant made a complaint to Cardinal about his working conditions, their human resources department would have conducted an investigation into the complaint.

(5) Claimant’s supervisor tasked claimant with overseeing the work schedules of subordinate employees and generally did not intervene in the process as long as each shift was covered. An employee requested that claimant not schedule her to work on November 28, 2024, the Thanksgiving holiday, to accommodate plans involving her family. Claimant fulfilled that request by scheduling another employee, with their agreement, to work that day instead.

(6) On the evening of November 27, 2024, claimant’s supervisor called claimant from the gas station while claimant was at home. The assistant manager had complained to claimant’s supervisor about claimant agreeing to allow the employee who had requested Thanksgiving off to have that day off and substituting another employee on the schedule. Claimant’s supervisor was angry at claimant for having done so, and put the call on speakerphone while the supervisor told the employee that she would have to work on Thanksgiving. Claimant felt this was an effort to embarrass and undermine him, and did not understand why the supervisor was angry with him.

(7) On November 28, 2024, claimant reported for work as scheduled, then texted his supervisor that he was resigning with immediate effect. Claimant left the gas station and did not work for the employer thereafter. Claimant quit work based, in part, on the actions of his supervisor and the assistant manager the previous night, and the working conditions generally.

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.

Claimant quit work due to his dissatisfaction with the work environment, including the inability to take breaks and his contentious relationships with his supervisor and the assistant manager. The order under review concluded that claimant's supervisor's November 27, 2024, telephone call about an employee's schedule did not constitute a grave situation, and claimant therefore quit without good cause. Order No. 25-UI-285716 at 3. The record does not support that claimant quit work because of that incident alone. Instead, it shows that the incident was part of a pattern of conduct by the supervisor and others at RK Petroleum that amounted to a grave situation.

Claimant testified that he quit work due to the "treatment of the employees—how we were treated. We got no breaks. We got no lunches. . . If we had to go the bathroom, we had to pray that we wouldn't get busy so we could go to the bathroom." Audio Record at 13:49. Aside from the lack of breaks, claimant testified that he quit because he "had enough of being told [he] was an idiot, [he] had enough of being told [he] was stupid, and [his] job threatened and. . . having [his] assistant manager, who forced her way into the position, go over [his] head and then being told that she's not going over [his] head." Audio Record at 10:37. Claimant explained that his supervisor "repeatedly would threaten [him] with [his] job. He'd come in and say, 'I'm this close to firing everybody and putting in a different crew.'" Audio Record at 8:00. Claimant further testified that the supervisor one day would tell him that he's "doing a great job," then the next day tell him that he's "stupid" and does not "know what [he's] talking about" and is "lucky to have a job." Audio Record at 8:15. Claimant recounted being "berated repeatedly and [having his] job threatened repeatedly." Audio Record at 8:35. Additionally, claimant described his assistant manager as "doing everything in their power and going behind [claimant's] back [to] mak[e] his life difficult." Audio Record at 7:50.

It was in this context that claimant received the call at home on the evening of November 27, 2024, from his supervisor, who was inexplicably angry that claimant had modified the following day's schedule to remove an employee who had requested Thanksgiving off and substitute an employee willing to work her shift. Claimant described the tone of the call as the supervisor "proceed[ing] to ream [claimant] a new one," as he told claimant that he was "screwing up [the supervisor's] personal time," apparently by the assistant manager having complained about the schedule change. Audio Record at 9:32. During the call, the supervisor stated that he was putting the call on speakerphone because "I want you to hear this," then told the employee who had requested Thanksgiving off that she had to work. Audio Record at 10:35. Claimant viewed the call as evidence that his working conditions would continue to deteriorate, and therefore resigned the next morning with immediate effect. Cardinal's witness at hearing had no knowledge of claimant's day-to-day work activities or the events described in claimant's testimony, and did not rebut his testimony in that regard. Under the circumstances claimant experienced, a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would have left work. Claimant therefore faced a grave situation.

Furthermore, claimant had no reasonable alternative to leaving work. Claimant testified that at one point during his employment, he spoke with RK Petroleum's owner about various points of dissatisfaction with the work environment that his supervisor would not address. Claimant stated that the owner's response was to "suck it up and deal with it," and claimant thereafter felt that complaining to the owner would be futile, so he did not do it again. Audio Record at 12:35. Claimant also testified that there were

no other members of management or a human resources department at RK Petroleum to whom he could complain. Audio Record at 12:25.

However, Cardinal's witness testified that if claimant had taken his complaints to them, their human resources department would have conducted a "thorough investigation" that included witness interviews Audio Record at 23:33. Claimant testified regarding the employment relationship with Cardinal that he "always thought they were the payroll side of [RK Petroleum]," and "didn't know they were also [his] employer [or a] partner of RK Petroleum," and he was therefore unaware that he could contact them with complaints. Audio Record at 24:30. The record does not suggest that the joint employment relationship was ever explained to claimant, or that he otherwise had reason to know that Cardinal could assist him with human resources issues. Therefore, while addressing the complaints to Cardinal may possibly have served to resolve the situation claimant faced, it was not a reasonable alternative to quitting because claimant was unaware this alternative existed. Accordingly, claimant had no reasonable alternative to leaving, and 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-285716 is set aside, as outlined above.

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

DATE of Service: May 1, 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

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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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