

**EMPLOYMENT APPEALS BOARD DECISION**  
**2025-EAB-0197**

*Affirmed*  
*Late Request for Hearing Allowed*  
*Disqualification*

**PROCEDURAL HISTORY:** On May 25, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit work without good cause and therefore was disqualified from receiving unemployment insurance benefits effective May 31, 2020 (decision # 81414). On June 14, 2021, decision # 81414 became final without claimant having filed a request for hearing. On May 7, 2024, claimant filed a late request for hearing on decision # 81414.

On March 7, 2025, ALJ Chiller conducted a hearing on claimant's late request for hearing and the merits of decision # 81414 at which the employer failed to appear. On March 12, 2025, ALJ Chiller issued Order No. 25-UI-285767, allowing claimant's late request for hearing and affirming decision # 81414. On March 29, 2025, claimant filed an application for review with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** Claimant submitted written arguments on April 1, 2025, and April 3, 2025. EAB did not consider claimant's April 1, 2025, written argument because he did not state that he provided a copy of the argument to the employer as required by OAR 471-041-0080(2)(a) (May 13, 2019). As to claimant's April 3, 2025, written argument, it contained information that was not part of the hearing record and did not show that factors or circumstances beyond claimant's reasonable control prevented them 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.

EAB considered the entire hearing record, including witness testimony and any exhibits admitted as evidence. EAB agrees with the part of Order No. 25-UI-285767 allowing claimant's late request for hearing on decision # 81414. That part of Order No. 25-UI-285767 is **adopted**. See ORS 657.275(2).

**FINDINGS OF FACT:** (1) Cody Crew Inc., a staffing agency, employed claimant on a work assignment for a work site employer, Bob's Red Mill, from March 2020 until June 2, 2020.

(2) Claimant worked as a laborer on the graveyard shift in one of the work site employer's warehouses. The work site employer had COVID-19 safety protocols in place, including requiring employees to wear masks, requiring six feet of social distancing, implementing breaks in shifts, and providing hand sanitizer at clock-in stations. Claimant observed that not all employees used the hand sanitizer and that, even with staggered break schedules, a large number of employees were present in the break room during breaks. Claimant worked on a production line in close quarters with another employee. Though six feet of social distancing was required, claimant often was closer than six feet to the employee.

(3) On June 2, 2024, claimant was working in close quarters with the employee. That night, claimant noticed that the employee was showing symptoms of COVID-19. Claimant went on his break, and when he returned to his work area, the employee was gone. Claimant asked his floor supervisor what happened to the employee, and the supervisor stated, "Oh, we had to let him go." Audio Record at 14:08.

(4) Claimant looked at the employee's work area and, because grain had been left on the table and packaging labels left where they had been before, he concluded that the work area had not been cleaned. Claimant asked the supervisor if the employer could clean up the employee's workstation. The supervisor replied, "No, just get back to work." Audio Record at 14:14.

(5) Claimant expected the work site employer to clean the employee's work area. Claimant had access to disinfectant that he could have used to wipe down the employee's work area. However, he did not clean the area because he did not feel safe doing the cleaning himself and thought the employer should have done the cleaning.

(6) The work site employer's conduct of failing to clean the employee's work area after sending home or laying off the employee who had an apparent COVID-19 infection, and then declining to clean the work area when claimant asked them to do so, was a "red flag" and caused claimant to not feel safe. Audio Record at 14:21.

(7) Claimant did not have any health conditions that heightened his risk of contracting COVID-19 or of having worsened symptoms of COVID-19 once infected. However, claimant had heard that COVID-19 "targets young kids and elderly" and was concerned about the risk of becoming infected and spreading the virus to his children. Audio Record at 16:13. Claimant's children were two and seven years old.

(8) After the supervisor declined to clean the employee's work station, claimant decided to quit working for the work site employer, left the premises, and ended the work assignment.

**CONCLUSIONS AND REASONS:** Claimant voluntarily left 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.

Claimant did not meet his burden to establish good cause for leaving work. The risk of exposure to and spread of COVID-19 was a serious matter. Although claimant had no health conditions that heightened his risk of contracting COVID-19 or of having worsened symptoms of COVID-19 once infected, claimant was understandably concerned about the possibility of spreading the virus to his children. However, claimant failed to show that on June 2, 2020, he faced a situation of such gravity that he had no reasonable alternative but to leave work.

Though claimant questioned the effectiveness of some of their safety efforts, it is undisputed that the work site employer had COVID-19 safety protocols in place, including requiring employees to wear masks, requiring six feet of social distancing, implementing breaks in shifts, and providing hand sanitizer at clock-in stations. Further, the employer sent home or laid off the employee who had an apparent COVID-19 infection, thereby showing responsiveness to the danger presented by the employee and minimizing the employee’s ability to spread COVID-19 to claimant or to others. While claimant concluded, based on the appearance of the employee’s work area, that the work area had not been cleaned, claimant had access to disinfectant and could have cleaned the work area himself. The single instance of working in close quarters with the employee who exhibited signs of COVID-19 infection but who was then removed from claimant’s work environment, when such work occurred with COVID-19 safety protocols in place, and when sanitizing the employee’s work area was available to claimant, did not pose a grave risk of COVID-19 spread to claimant or to his children. Nor did the work site employer’s single instance of declining to clean the employee’s work area show that they were neglectful or had a dismissive attitude about COVID-19 safety that might justify claimant leaving work because of the risk of exposure in the future. Given that the employer implemented COVID-19 safety protocols (claimant’s doubts about the efficacy of some of those measures notwithstanding) and exhibited responsiveness by removing the employee from the work environment, the evidence is not sufficient to show that claimant faced a grave situation because COVID-19 exposure or eventual spread to his children was likely if he had continued working.

Furthermore, reasonable alternatives to quitting were available, and claimant did not pursue them. First, claimant had access to disinfectant and could have cleaned the employee’s work area himself. Claimant did not do so because he did not feel safe doing the cleaning himself and thought the employer should have done the cleaning. It is not evident, however, that engaging in the sanitizing himself, particularly if done carefully and while wearing a face covering, would have been unsafe. Claimant therefore failed to show that this alternative to quitting was not reasonable. Moreover, claimant could have requested to work in a different area in the warehouse or work on a different task until he felt his work area was safe. Though claimant’s floor supervisor had told claimant to get back to work, claimant did not show that the

supervisor's directive precluded him from requesting to work somewhere else in the warehouse or on a different task that would necessarily allow him to avoid being near the other employee's work area.

For these reasons, claimant voluntarily left work without good cause and is disqualified from receiving unemployment insurance benefits effective May 31, 2020.

**DECISION:** Order No. 25-UI-285767 is affirmed.

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

**DATE of Service:** May 5, 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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