

**EMPLOYMENT APPEALS BOARD DECISION**  
**2025-EAB-0206**

*Reversed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On January 31, 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 January 5, 2025 (decision # L0009043014). Claimant filed a timely request for hearing. On March 26, 2025, ALJ Frank conducted a hearing at which the employer failed to appear, and on March 27, 2025, issued Order No. 25-UI-287489, modifying decision # L0009043014 by concluding that claimant voluntarily quit work without good cause and was disqualified from receiving benefits effective December 1, 2024.<sup>1</sup> On April 1, 2025, claimant filed an application for review of Order No. 25-UI-287489 with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Premier Community Sports, LLC employed claimant as a direct support professional from approximately June 2022 through December 2, 2024.

(2) Claimant worked providing personal care to the employer's disabled client. Over the course of claimant's employment, the client showed increasing "physical aggression" such that a team of four employees had to intervene four to five times per day. Audio Record at 11:52. Claimant was injured twice on the job and received workers' compensation benefits in connection with those injuries.

(3) By November 2024, claimant applied to and was accepted in a labor union's apprenticeship program. The program used a referral list to assign members work. After placement on the referral list, claimant gave notice to the employer that he would be leaving work in early December 2024.

(4) On December 2, 2024, claimant quit working for the employer. Claimant had not yet been referred for work by the union and did not know when a referral would occur. Claimant nonetheless quit work at

<sup>1</sup> Although Order No. 25-UI-287489 stated it affirmed decision # L0009043014, it modified that decision by changing the beginning date of the disqualification from January 5, 2025 to December 1, 2024. Order No. 25-UI-287489 at 3.

that time because he felt that he was at a “high risk of injury” working for the employer. Audio Record at 11:00. Despite this risk, claimant would not have quit work had he not been on the union referral list.

(5) On December 21, 2024, the union gave claimant his first referral for work and claimant began work the following day.

**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.

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).

Per OAR 471-030-0038(5)(b)(A), leaving work without good cause includes “[l]eaving suitable work to seek other work[.]”

Claimant quit work because he feared further injury if he continued working for the employer, and felt that being on the union referral list provided adequate assurance of finding other work. The order under review concluded that claimant left work to accept an offer of other work or to seek other work, and did so without good cause. Order No. 25-UI-287489 at 2-3. The record does not support that accepting or seeking other work was claimant’s only reason for leaving work when he did or that he quit work without 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). Claimant gave notice of his intent to leave work after being accepted into an apprenticeship program that placed him on a union’s work referral list. At the time claimant’s resignation became effective on December 2, 2024, claimant had been on the referral list for over a month but had not been offered any work, from the referral list or otherwise. Claimant therefore did not leave work to “accept an offer of other work,” as contemplated by OAR 471-030-0038(5)(a), because such an offer had not been extended.

Claimant testified that he would not have left work when he did had he not been on the union's referral list.<sup>2</sup> See Audio Record at 8:35. However, the record does not suggest that claimant was conducting work search efforts independent of being on the referral list. Claimant continued to work for the employer for "at least" a month after being accepted into the program and placed on the list, which suggests that this did not interfere with claimant's availability to continue working for the employer while awaiting a work referral. Audio Record at 8:25. It can reasonably be inferred from these circumstances that claimant did not leave work for the purpose of actively seeking other work, as contemplated by OAR 471-030-0038(5)(b)(A), even though he would not have left work when he did without believing that he could quickly find other work as a result of being on the referral list. Moreover, as claimant faced a grave situation at the time he left work, as explained in greater detail below, the work left was no longer "suitable," and the rule therefore would not preclude a finding of good cause had he left work to seek other work.<sup>3</sup>

At hearing, claimant was asked why he did not continue to work for the employer until he received a job offer through the union referral list, and claimant replied that it was because he faced a "high risk of injury" working for the employer. Audio Record at 11:00. Claimant asserted that he had been "on workers' comp at two separate times" due to injuries sustained working for the employer. Audio Record at 11:17. Claimant described the continuing risk to his safety as being posed by the client's "physical aggression" and testified that he was last "attacked" in February 2024. Audio Record at 11:47. Claimant stated that at the time he left work, conditions were "starting to get very dangerous, things were ramping up, behaviors were more frequent." Audio Record at 15:50. Claimant explained that a team of four employees had to intervene in the client's acts of physical violence four to five times per day. Audio Record at 16:03. A reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would leave work under these conditions, and claimant therefore faced a grave situation. Similarly, in considering the degree of risk posed to claimant's health and safety by this situation, the work had become unsuitable for purposes of OAR 471-030-0038(5)(b)(A).

The record does not suggest that claimant had any reasonable alternative to leaving. The employer provided staffing such that four employees responded several times per day to intervene in the client's violent episodes, yet claimant risked further injury to himself during and between each intervention. Requesting further staffing or resources with respect to this client therefore would likely not have been practical or resolved the increasing risk to claimant's safety. Further, the evidence failed to establish that the employer had other clients or, if so, that claimant had the ability to request a change in clients such that the risk to claimant's safety could be alleviated by doing so. Accordingly, it is more likely than not that claimant had no reasonable alternative to leaving, and he therefore 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.

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<sup>2</sup> The question was posed to claimant, "If you had not had this offer of other work, would you still have otherwise quit [working for the employer]?" to which claimant replied in the negative, but it was later clarified that claimant had not received an offer of other work and was referring only to being placed on a union referral list. Audio Record at 8:15 to 9:40.

<sup>3</sup> Factors to consider when determining whether work is "suitable" include, in pertinent part, "the degree of risk involved to the health, safety and morals of the individual. . . ." ORS 657.190.

**DECISION:** Order No. 25-UI-287489 is set aside, as outlined above.

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

**DATE of Service:** May 8, 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 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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