

State of Oregon  
**Employment Appeals Board**  
875 Union St. N.E.  
Salem, OR 97311

**EMPLOYMENT APPEALS BOARD DECISION**  
**2025-EAB-0225**

*Reversed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On March 4, 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 26, 2025 (decision # L0009549821).<sup>1</sup> Claimant filed a timely request for hearing. On March 28, 2025, ALJ Gutman conducted a hearing, and on April 9, 2025, issued Order No. 25-UI-289004, affirming decision # L0009549821. On April 14, 2025, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) TWGW, Inc. employed claimant as a salesclerk at one of their auto part stores from January 23, 2025, through January 28, 2025.

(2) Prior to and during claimant's employment he was treated for anxiety.

(3) On January 23, 2025, claimant's first day of work, he was provided one hour of training on how to use the employer's computer system. He did not receive additional formal training. The store manager did not work on January 24 or 25, 2025, and in her absence one of claimant's coworkers was expected to help claimant learn the job. The coworker would sometimes leave claimant alone and he would have to assist customers on his own, which claimant felt he had not been adequately trained to do. Claimant was increasingly anxious about performing work tasks without sufficient training, but did not ask for additional training.

(4) Immediately after he began working for the employer, claimant heard his manager and coworkers frequently "cursing" and saying "the 'f' word," using "sexual language like talking about balls," and witnessed one coworker make "some racist comments." Transcript at 13-14. Claimant also observed

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<sup>1</sup> Decision # L0009549821 stated that claimant was denied benefits from January 26, 2025, to January 3, 2026. However, decision # L0009549821 should have stated that claimant was disqualified from receiving benefits beginning Sunday, January 26, 2025, and until he earned four times his weekly benefit amount. See ORS 657.176.

“inappropriate” things written on computer monitors and in the manager’s workspace, such as “posters and notes,” and “an ornament looking thing that looked like testicles hanging from a manager’s chair.” Transcript at 15-16. Claimant did not complain about these things to the store manager because she was a participant in them, and feared retaliation if he reported them to the employer’s human resources department.

(5) Claimant was not scheduled to work on January 26 or 27, 2025, and was next scheduled to work on January 28, 2025. Prior to his shift that day, claimant called the store manager and told her that he was “having anxiety problems and [he] wasn’t coming in.” Transcript at 15. The manager relayed to the employer’s human resources manager that claimant had quit work. The human resources manager called claimant, who complained about the lack of training and the inappropriate behavior of his manager and coworkers. The human resources manager pledged to investigate and address claimant’s complaints, and asked if he “wanted to give it another try” by continuing to work at the store, which claimant declined. Transcript at 18. Claimant did not work for the employer thereafter.

(6) In later investigating claimant’s complaints, the store manager admitted to the human resources manager having frequently used “the ‘f’ word” and stated that the use of foul language was commonplace in the store among customers and employees. Transcript at 25. The human resources manager also discovered that claimant’s coworker had established the coworker’s username in the employer’s computer system as “the ‘n’ word,” a racial slur, and would call the attention of other employees, including claimant, to it whenever it appeared on their computer screens. Transcript at 28-29.

(7) When claimant quit work during the January 28, 2025, telephone call with the human resources manager, he did not request a transfer to another store because he did not think the employer would approve one after having worked only three shifts. The human resources manager would have arranged a transfer to avoid claimant experiencing retaliation from his complaints if he requested, but did not suggest that possibility to claimant.

**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). Claimant had anxiety, a permanent or long-term “physical or mental impairment” as defined at 29 CFR §1630.2(h). A claimant with an impairment who quits work must show that no reasonable and prudent person with the characteristics and qualities of an individual with such an impairment would have continued to work for their employer for an additional period of time.

Claimant quit work because he had increased anxiety about performing tasks with what he believed was insufficient training, and because he was subjected to a work environment where foul and racist language and inappropriate imagery were commonplace. The order under review concluded that

claimant faced a grave situation as a result of these circumstances, but quit work without good cause because he had reasonable alternatives to leaving. Order No. 25-UI-289004 at 3. The record supports that claimant faced a grave situation, but does not support that claimant had a reasonable alternative to leaving work.

Claimant worked three shifts for the employer, and his direct supervisor was present only for a portion of the first one. Claimant was given one hour of computer-based training, and a coworker was assigned to help him learn other responsibilities of the job. However, the coworker frequently left claimant on his own to assist customers, though claimant felt insufficiently trained to do so. This lack of training caused claimant increasing anxiety. Despite claimant feeling that he lacked the training to do his job, he did not request additional training. The record suggests that claimant's store manager was scheduled to be present for at least some of claimant's shifts the following week, and may have been able to arrange for additional training at that time. Under these circumstances, a reasonable and prudent person with the characteristics and qualities of an individual with an impairment such as claimant's would not have quit work when claimant did, particularly without first seeking additional training.

Claimant also quit work due to an environment where he was subjected to foul and racist language and inappropriate imagery. The human resources manager testified that her investigation, conducted after the work separation, corroborated claimant's accounts of foul language being used by the store manager and others, and that a coworker was using racist language visible to employees through the computer system. Transcript at 23-25. Claimant faced a grave situation as a result of these circumstances.

Furthermore, claimant had no reasonable alternative to leaving work. Claimant testified that he did not report the behavior he witnessed in the store to human resources, prior to his conversation on January 28, 2025, because he had just started working there and "didn't want to get in trouble or get fired." Transcript at 13. The human resources manager suggested that claimant's fear of retaliation was founded and that she therefore "would have managed to find him someplace to sit while [she] addressed his concerns," meaning a temporary transfer to another store. Transcript at 32-33. However, the record does not show that the human resources manager suggested the possibility of transfer to claimant, and claimant testified that he did not seek transfer on his own because he did not believe the employer would approve a transfer after having worked only three shifts. Transcript at 18. Therefore, due to the substantial possibility of retaliation, complaining to human resources but continuing to work at the store was not a reasonable alternative. Moreover, because claimant reasonably believed that the employer would not approve a transfer after only three days of employment, and the human resources manager did not suggest this option to claimant after hearing his complaints and asking if he wanted to continue working for the employer, transfer was also not a reasonable alternative because claimant was unaware it could be accomplished. 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 from this employer.

**DECISION:** Order No. 25-UI-289004 is set aside, as outlined above.

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

**DATE of Service: May 15, 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 دستور العمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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