

**EMPLOYMENT APPEALS BOARD DECISION**  
**2025-EAB-0242**

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

*Confirmada*  
*La Solicitud Tardía Para Una Audiencia Es Permitida*  
*Descalificación*

***Este documento incluye información importante que no ha sido traducida al español. Llame a la Junta de Apelaciones de Empleo (EAB) al 503-378-2077 para obtener servicios de traducción gratuitos.<sup>1</sup>***

**PROCEDURAL HISTORY:** On October 28, 2024, 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 October 6, 2024 (decision # L0006853956).<sup>2</sup> On November 18, 2024, decision # L0006853956 became final without claimant having filed a request for hearing. On January 9, 2025, claimant filed a late request for hearing. ALJ Kangas considered the request, and on January 24, 2025, issued Order No. 25-UI-280995, dismissing the request for hearing as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by February 7, 2025.

<sup>1</sup> This document includes important information that has not been translated into Spanish. Please call the Employment Appeals Board (EAB) at 503-378-2077 to obtain free translation services.

<sup>2</sup> Decision # L0006853956 stated that claimant was denied benefits from October 6, 2024 to October 4, 2025. However, decision # L0006853956 should have stated that claimant was disqualified from receiving benefits beginning Sunday, October 6, 2024 and until he earned four times his weekly benefit amount. *See* ORS 657.176.

*La decisión # L0006853956 dijo que al reclamante se le negaron los beneficios desde el 6 de octubre de 2024 hasta el 4 de octubre de 2025. Sin embargo, la decisión # L0006853956 debería haber dicho que el reclamante estaba descalificado para recibir beneficios a partir del domingo el 6 de octubre de 2024 y hasta que él ganara cuatro veces su cantidad de beneficios semanales. ORS 657.176.*

On January 30, 2025, claimant filed a timely response to the appellant questionnaire. On February 18, 2025, the Office of Administrative Hearings (OAH) mailed a letter to the parties stating that Order No. 25-UI-280995 was vacated and that a hearing would be scheduled to determine whether claimant's late request for hearing should be allowed and, if so, the merits of decision # L0006853956. On March 27, 2025, ALJ Enyinnaya conducted a hearing interpreted in Spanish, and on April 3, 2025, issued Order No. 25-UI-288352, allowing claimant's late request for hearing and affirming decision # L0006853956 on the merits. On April 21, 2025, claimant filed an application for review of Order No. 25-UI-288352 with the Employment Appeals Board (EAB).

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-288352 allowing claimant's late request for hearing. That part of Order No. 25-UI-288352 is **adopted**. See ORS 657.275(2).

**HISTORIA DEL PROCEDIMIENTO:** *El 28 de octubre de 2024, el Departamento de Empleo de Oregón (el Departamento) notificó una decisión administrativa que concluía que el reclamante renunció su trabajo voluntariamente sin una buena causa y, por lo tanto, fue descalificado para recibir beneficios del seguro de desempleo a partir del 6 de octubre de 2024 (decisión # L0006853956). El 18 de noviembre de 2024, la decisión # L0006853956 se volvió definitiva sin que el reclamante hubiera solicitado una audiencia sobre la decisión. El 9 de enero de 2025, el reclamante presentó una solicitud tardía para una audiencia. La jueza administrativa Kangas consideró la solicitud, y el 24 de enero de 2025, emitió la Orden No. 25-UI-280995, desestimando la solicitud de audiencia por ser tardía, sujeta al derecho del reclamante a renovar la solicitud respondiendo a un cuestionario de apelación antes del 7 de febrero de 2025.*

*El 30 de enero de 2025, el reclamante presentó una respuesta oportuna al cuestionario. El 18 de febrero de 2025, la Oficina de Audiencias Administrativas (OAH) envió una carta a las partes diciendo que la Orden No. 25-UI-280995 fue anulada y que se programaría una audiencia para determinar si la solicitud tardía del demandante para la audiencia debería ser permitida y, de ser así, los méritos de la decisión # L0006853956. El 27 de marzo de 2025, la jueza administrativa Enyinnaya llevó a cabo una audiencia interpretada en español, y el 3 de abril de 2025, emitió la Orden No. 25-UI-288352, permitiendo la solicitud tardía del reclamante para la audiencia y confirmando la decisión # L0006853956 en los méritos. El 21 de abril de 2025, el reclamante presentó una solicitud de revisión de la Orden No. 25-UI-288352 ante la Junta de Apelaciones de Empleo (EAB).*

*EAB consideró todo el registro de la audiencia, incluido el testimonio de los testigos y cualquier prueba admitida como evidencia. EAB está de acuerdo con la parte de la Orden No. 25-UI-288352 permitiendo la petición tardía de audiencia del reclamante. Esa parte de la Orden No. 25-UI-288352 es **adoptada**. ORS 657.275(2).*

**FINDINGS OF FACT:** (1) Bark Boys, Inc. employed claimant as a vehicle mechanic from September 15, 2022 through October 8, 2024.

(2) The employer's operating hours were Monday through Friday, 7:00 a.m. to 5:00 p.m., and Saturday, 9:00 a.m. to 3:00 p.m. Claimant was regularly scheduled to work from 7:00 a.m. to 5:00 p.m., Monday through Friday, but occasionally worked beyond those hours during the workweek or on Saturday. However, claimant believed that his regular shifts ended at 3:30 p.m. and that he could leave work at or

after that time if he wanted to do so. Claimant was generally permitted to leave work before 5:00 p.m. when he requested to do so for a specific personal or family reason.

(3) On January 21, 2023, claimant and two other employees were five minutes late for safety training. The employer's owner had stressed to the employees the importance of arriving early for the training to avoid additional costs, and their late arrival upset him. The owner had "a discussion" with the three tardy employees "about being respectful of people's time." Transcript at 32. Claimant felt that the owner had "yelled" at him, and in response took the next two days off work. Transcript at 29.

(4) On October 7, 2024, at approximately 3:30 p.m., claimant's supervisor directed claimant to begin repairing a truck. Claimant's supervisor and the owner each believed that the repairs could be completed by 5:00 p.m. Claimant told the supervisor that he was leaving for the day, took his work coveralls off, and began gathering his things to leave. The supervisor reported this to the owner, and the owner told claimant, "[W]e need to get this truck fixed," but claimant "just shrugged his shoulders like it was no big deal and he was going to leave an hour early." Transcript at 19. However, claimant then began "to put his coveralls on to go back to work on the truck." Transcript at 19.

(5) The owner returned to his office for approximately five minutes to consider the situation. He then went back to claimant and said, "We're not doing this tonight. I am sick of this. I am sick of you trying to leave early every day. I'm sick of you being late every morning. We are not doing this. Let's go home for the night. We'll try it again tomorrow[.]" Transcript at 19. The owner was on the opposite side of the truck from claimant when making these statements, and believed that he had "yelled at the situation" rather than at claimant directly. Transcript at 20. Claimant believed that the owner had yelled at him, however, and left work immediately following the exchange.

(6) On October 8, 2024, claimant quit working for the employer based on his belief that the owner had yelled at him the day before. Claimant did not report for work as scheduled and did not notify the employer of his resignation. At 7:22 a.m., the employer texted claimant asking why he was not at work, but claimant did not respond. Several days later, claimant came to the business to pick up his final paycheck, and the supervisor asked claimant to return to work but he refused.

**CONCLUSIONS AND REASONS:** Claimant voluntarily quit work without good cause.

**CONCLUSIONES Y RAZONES:** *El reclamante renunció voluntariamente al trabajo sin una causa justificada.*

**Nature of the work separation.** If an employee could have continued to work for the same employer for an additional period of time, the work separation is a voluntary leaving. OAR 471-030-0038(2)(a) (September 22, 2020). If the employee is willing to continue to work for the same employer for an additional period of time but is not allowed to do so by the employer, the separation is a discharge. OAR 471-030-0038(2)(b).

Claimant testified that on October 7, 2024, he left work prior to the end of his shift after he believed the owner had yelled at him and "said that he was sick of me and he didn't want to see me anymore," and told him to "get out." Transcript at 10-11. Claimant testified that he did not report for work the following day because "I didn't feel very good about what he had told me." Transcript at 13. Claimant

denied making or receiving any communications with the employer thereafter until he went to the business to pick up his final paycheck days later. Transcript at 15. Claimant asserted that when picking up the check, he asked the supervisor, “I was fired, wasn’t I?” and the supervisor replied, “I know.” Transcript at 14. Claimant nonetheless testified that he considered the work separation a “quit” that occurred on October 7, 2024. Transcript at 10.

The owner and supervisor gave accounts of these events that partially conflicted with claimant’s, as discussed in further detail below. However, the employer’s witnesses agreed with claimant that they understood he had decided not to report for work on October 8, 2024 or thereafter because he was upset over the previous day’s events. Transcript at 18-19, 26-27. The employer maintained that continuing work was available for claimant on and after October 8, 2024.

In weighing this evidence, it is more likely than not that the employer would have allowed claimant to continue working for them on and after October 8, 2024, but that claimant decided by that morning that he was unwilling to do so and conveyed that to the employer by failing to report to work. Accordingly, the work separation was a voluntary leaving that occurred on October 8, 2024.

**Voluntary leaving.** 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). “[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 because he was upset about what the owner had said to him on October 7, 2024. Claimant asserted that, following a January 21, 2023 incident in which he felt that he and other employees were yelled at for being late to a safety training, he asked the owner for clarification of his work schedule, and that after that conversation he believed his shifts ended at 3:30 p.m. Transcript at 30-31. Claimant testified that on October 7, 2024, “at 4:30 in the afternoon,” he was repairing a truck with his supervisor when the owner began yelling at them, claimant stated to the owner that he was “just trying to help,” and the owner “said that he was sick of me and he didn’t want to see me anymore.” Transcript at 10-12.

Claimant then left work for the day because he believed the owner would not allow him to repair the truck, and decided to quit work prior to the start of his shift the following morning because of the owner’s actions. Claimant implied that the owner was yelling “in [his] face” on this occasion, but did not assert that the owner used foul language, in contrast to the January 21, 2023 incident during which, according to claimant, the owner “was using bad words.” Transcript at 24, 30. Claimant also asserted that the employer did not attempt to communicate with him on October 8, 2024, and that when he later went to the business to pick up his paycheck, the supervisor had agreed with claimant that the owner had “fired” claimant. Transcript at 14.

In contrast, the owner testified that on October 7, 2024 at 3:30 p.m., the supervisor told him that claimant was preparing to leave for the day rather than repairing a truck that could be finished by 5:00 p.m. Transcript at 19. The owner explained that claimant's regular work schedule throughout his employment had corresponded with the normal operating hours of the business during the workweek, Monday through Friday, 7:00 a.m. to 5:00 p.m. Transcript at 32. The owner was upset that claimant intended to leave early rather than completing repairs on a truck that could be finished by the end of the workday, and "yelled at the situation," but denied yelling "in [claimant's] face." Transcript at 21, 24. The owner then directed claimant to leave work for the day, which he did. The owner further testified that when claimant failed to report for work the next morning, he texted claimant but claimant failed to respond. Transcript at 19. Regarding the January 21, 2023 incident, the owner denied yelling at the tardy employees, including claimant, but framed it as a "discussion" about the importance of punctuality. Transcript at 32. The supervisor's testimony largely corroborated the owner's testimony about the October 7, 2024 incident, and rebutted claimant's testimony of the conversation when claimant picked up his paycheck, asserting that instead of discussing whether claimant had been discharged, the supervisor asked claimant to return to work. Transcript at 27-28.

In weighing the conflicting evidence, claimant's account is no more than equally balanced with the employer's witnesses' accounts, and as claimant bears the burden of proof by a preponderance of the evidence, he failed to meet that burden. Therefore, where the evidence conflicts, the facts have been found in accordance with the employer's witnesses' accounts.

While the owner "yelled at the situation" in claimant's presence on October 7, 2024, he did not use foul language, approach claimant closely, or otherwise act in an objectively aggressive or abusive manner. Though this made claimant uncomfortable, the act was isolated, as claimant cited only one other similar instance in which he felt uncomfortable due to the employer reprimanding him, which occurred nearly two years earlier. Under these circumstances, a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would not leave work because of the owner's actions. Accordingly, claimant did not face a situation of such gravity that he had no reasonable alternative but to leave work, and therefore quit without good cause.

Claimant voluntarily quit work without good cause and is disqualified from receiving unemployment insurance benefits effective October 6, 2024.

*El reclamante renunció voluntariamente al trabajo sin una buena causa y se le descalifica de recibir beneficios de seguro de desempleo a partir del 6 de octubre de 2024.*

**DECISION:** Order No. 25-UI-288352 is affirmed.

**DECISIÓN:** La Orden de la Audiencia 25-UI-288352 queda confirmada.

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

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

**Please help us improve our service by completing an online customer service survey.** To complete the survey, please go to <https://www.surveymizmo.com/s3/5552642/EAB-Customer-Service-Survey>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.

***NOTA:*** Puede apelar esta decisión presentando una Petición de Revisión Judicial ante la Corte de Apelaciones de Oregon (Oregon Court of Appeals) **dentro de los 30 días siguientes a la fecha de entrega de esta decisión indicada arriba.** Vea ORS 657.282. Para obtener formularios e información, visite <https://www.courts.oregon.gov/courts/appellate/forms/Pages/appeal.aspx> y elija el formulario para “Junta de Apelaciones Laborales”. En este sitio web, hay información disponible en español. Puede solicitar un intérprete para la Corte en <https://web.courts.oregon.gov/osca/clas/CLASRequestFormRedirect.html> También puede comunicarse con la Corte de Apelaciones por teléfono al (503) 986-5555, por fax al (503) 986-5560 o por correo a 1163 State Street, Salem, Oregon 97301.

**Por favor, ayúdenos a mejorar nuestro servicio completando una encuesta de servicio al cliente.** Para completar la encuesta en línea, vaya a <https://www.surveymizmo.com/s3/5552642/EAB-Customer-Service-Survey>. Si no puede completar la encuesta en línea y desea obtener una copia impresa de la encuesta, comuníquese con nuestra oficina.



# 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**

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

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

Website: [www.Oregon.gov/employ/pages/employment-appeals-board.aspx](http://www.Oregon.gov/employ/pages/employment-appeals-board.aspx)

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