

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0244

Affirmed
Disqualification

PROCEDURAL HISTORY: On January 10, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged for misconduct and was therefore disqualified from receiving unemployment insurance benefits effective December 1, 2024 (decision # L0008223478).¹ Claimant filed a timely request for hearing. On March 25, 2025, ALJ Monroe conducted a hearing, and on April 17, 2025, issued Order No. 25-UI-289843, affirming decision # L0008223478. On April 23, 2025, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Forest River, Inc. employed claimant as a quality control inspector at their camper trailer manufacturing facility from March 20, 2013, through December 2, 2024.

(2) In addition to quality control work, in 2021 the employer assigned claimant responsibility for processing “traveler files,” which contained information and serial numbers on each component part of a finished trailer. Transcript at 7. These files were used to advise customers of recalls on affected trailers. Claimant would receive approximately eight to ten files per day and would be responsible for gathering information, checking the file for completeness, and scanning and sending the file electronically to the corporate office.

(3) When claimant assumed responsibility for the traveler files from another employee in 2021, that employee explained that the employer expected the files to be processed no later than the end of the month in which they were received. Claimant felt that she had insufficient time to complete this task during the workday because of her quality control duties, and, by late 2023, there was a significant backlog of unprocessed traveler files.

¹ Decision # L0008223478 stated that claimant was denied benefits from December 1, 2024, to November 29, 2025. However, decision # L0008223478 should have stated that claimant was disqualified from receiving benefits beginning Sunday, December 1, 2024, and until earned four times her weekly benefit amount. *See* ORS 657.176.

(4) In December 2023, claimant alerted the employer to the backlog, and another employee was temporarily assigned to assist claimant in processing the files. Additionally, claimant received permission to “box up” the information for the backlogged files and mail it to the corporate office to process. Transcript at 59.

(5) After December 2023, the employer expected that claimant would complete processing traveler files on the day they were received. Claimant did not understand the expectation to contain a daily deadline, but understood the importance to the employer and customers of timely processing these files, that they had to be processed no later than the end of the month received, and that processing backlogs should not occur.

(6) Almost immediately after the December 2023 backlog was addressed, a new backlog began. From December 2023 through December 2, 2024, claimant received more than 2,000 traveler files to process, but completed only “30 or 40” of them. Transcript at 55. Claimant failed to complete all but a negligible amount of traveler reports during 2024 because she continued to believe that the employer did not allow her adequate time away from her quality control responsibilities to perform this work. In April 2024, claimant was assigned a new supervisor who was unaware that claimant was responsible for processing traveler files, and during 2024 the employer did not monitor whether claimant was timely processing the files.

(7) The length of each workday varied depending on the employer’s production needs and could often extend past 4:00 pm. Before quality control employees were released from work each day, the employer asked them if they had completed all their work. “[M]ost of the time,” claimant “didn’t really have a response” to this question, despite knowing that there was a growing backlog of traveler files. Transcript at 49. Not realizing that claimant had accrued another backlog of traveler files, the employer sent claimant home at 4:00 p.m. or significantly earlier on at least 128 occasions from December 2023 through December 2024.

(8) From December 2023 through September 2024, claimant occasionally asked to stay late or come into work on days that the facility was on routine shutdown to catch up on “paperwork.” Transcript at 53. The employer allowed claimant to do so only once. Claimant was not assigned any work tasks that involved “paperwork” besides the traveler files, and she expected that her supervisor would know that she was talking about the traveler files being backlogged when she made such requests. However, claimant’s supervisor did not understand that claimant was talking about traveler files when she would tell him that she was “behind on paperwork,” and he therefore remained unaware of the backlog through November 2024. Transcript at 53. Had the employer known that claimant was not completing the traveler files on a daily basis, they would have either permitted claimant to work whatever additional time was needed to complete them or devote additional resources to the task.

(9) In September 2024, claimant told her supervisor that she was behind in her paperwork and needed assistance, and her supervisor began the process of “assess[ing] the situation.” Transcript at 27. After sorting through “piles” of papers, the supervisor eventually understood that claimant had been referring to traveler files. By mid-November 2024, the employer realized the extent of the backlog, and for approximately three weeks dedicated full-time resources to processing more than 2,000 traveler files from the preceding 12 months.

(10) On December 2, 2024, the employer discharged claimant for allowing the traveler file backlog to occur.

CONCLUSIONS AND REASONS: Claimant was discharged for misconduct.

ORS 657.176(2)(a) requires a disqualification from unemployment insurance benefits if the employer discharged claimant for misconduct connected with work. “As used in ORS 657.176(2)(a) . . . a willful or wantonly negligent violation of the standards of behavior which an employer has the right to expect of an employee is misconduct. An act or series of actions that amount to a willful or wantonly negligent disregard of an employer's interest is misconduct.” OAR 471-030-0038(3)(a) (September 22, 2020). “[W]antonly negligent’ means indifference to the consequences of an act or series of actions, or a failure to act or a series of failures to act, where the individual acting or failing to act is conscious of his or her conduct and knew or should have known that his or her conduct would probably result in a violation of the standards of behavior which an employer has the right to expect of an employee.” OAR 471-030-0038(1)(c). In a discharge case, the employer has the burden to establish misconduct by a preponderance of evidence. *Babcock v. Employment Division*, 25 Or App 661, 550 P2d 1233 (1976). Isolated instances of poor judgment and mere inefficiency resulting from lack of job skills or experience are not misconduct. OAR 471-030-0038(3)(b).

The employer discharged claimant because in the preceding 12 months she had processed only approximately 40 out of more than 2,000 traveler files she had received. After December 2023, the employer expected that claimant would process all traveler files received on a daily basis. The employer’s human resources manager testified that claimant’s supervisor in September 2023 told the human resources manager that he “made it clear” to claimant at that time “how important it was that the travelers get sent every day,” and put a note in claimant’s personnel file to that effect. Transcript at 64-65. In contrast, claimant testified that she was never given a daily deadline to complete the traveler files. Transcript at 32-33. As this evidence is no more than equally balanced and the employer bears the burden of proof by a preponderance of the evidence, the employer has not met that burden, and the facts have been found accordingly.

However, despite claimant being unaware of the expectation to complete traveler files daily, claimant acknowledged that she “[a]bsolutely” understood how “critical” timely completion of the files was for safety reasons. Transcript at 34. Claimant also testified that when she was assigned responsibility for the traveler files in 2021, the employee who had previously done them explained that they had to be done “once a month or at the end of the month.” Transcript at 32. Therefore, more likely than not, claimant understood that the employer expected her to complete all traveler files received no later than the end of each month. Further, it can reasonably be inferred from the employer’s reaction to the December 2023 backlog that claimant understood thereafter that the employer expected her to prevent future backlogs. These expectations were reasonable.

Claimant did not dispute that from December 2023 through December 2024 she completed only approximately 40 out of more than 2,000 traveler files she received. This violated the employer’s expectations that she complete the files by the end of the month they were received, and that she not allow backlogs to occur. The human resources manager testified that claimant first told her that she was having problems keeping up with her work beginning in September 2024, and made similar statements approximately once per month thereafter. Transcript at 16. The human resources manager, unaware that

claimant was talking about unprocessed traveler files, testified that she advised claimant to “manage your time better” and advised her to stay later or come in earlier, and work during production shutdowns. Transcript at 16-17. Claimant agreed that she had reported problems keeping up with her “paperwork” but asserted that she was denied permission to stay late or work during shutdowns except on one occasion. Transcript at 48-49.

Even if claimant had been denied permission to work extra hours, the record does not show that claimant made it clear to the employer at any point after December 2023 that a backlog of traveler files existed, as claimant testified she only made reference to “paperwork” in describing what work she was behind on to the employer. Transcript at 53. Further, claimant did not rebut the employer’s testimony that on at least 128 occasions beginning in December 2023, claimant left work at 4:00 p.m. or earlier, and that the employer asked her each day before releasing her whether she had completed all her work. Claimant testified that when asked this, “[M]ost of the time I really didn’t have a response,” and that she was told to “go home. . . if you guys are done,” which she did. Transcript at 49.

While claimant’s failure to complete the traveler files on at least a monthly basis could be attributable, at least in part, to “mere inefficiency resulting from lack of job skills” such as time management, the ever-increasing backlog claimant allowed to occur beginning in December 2023 was not caused by inefficiency alone. Rather, claimant’s conscious decision to remain silent at the end of most workdays when asked if all her work was completed, in order to be released earlier, evinced indifference to the consequences of her actions and a disregard for the employer’s interests. Had claimant clearly stated on any of those occasions that the traveler files had not been completed, the employer would more likely than not have dedicated additional resources to prevent a backlog. Therefore, claimant acted with wanton negligence in failing to ensure that the traveler files were completed by the end of each month and that a backlog did not occur.

Moreover, claimant’s conduct cannot be excused as an isolated instance of poor judgment. To fall within that exception, the conduct “must be a single or infrequent occurrence rather than a repeated act or pattern of other willful or wantonly negligent behavior.” OAR 471-030-0038(1)(d)(A). Claimant’s conduct in allowing the employer to believe that all her work, including processing the traveler files, had been completed each workday for several months constituted a repeated act, and was therefore not isolated. Accordingly, the employer has shown that claimant was discharged for misconduct.

For these reasons, claimant was discharged for misconduct and is disqualified from receiving unemployment insurance benefits effective December 1, 2024.

DECISION: Order No. 25-UI-289843 is affirmed.

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

DATE of Service: May 23, 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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