

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0251

Affirmed
Request to Reopen Allowed
No Disqualification

PROCEDURAL HISTORY: On February 5, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause and was disqualified from receiving benefits beginning December 29, 2024 (decision # L0009169744).¹ Claimant filed a timely request for hearing. On February 28, 2025, the Office of Administrative Hearings (OAH) served notice of a hearing scheduled for March 13, 2025. On March 13, 2025, ALJ Parnell conducted a hearing at which the employer failed to appear, and on March 17, 2025, issued Order No. 25-UI-286282, reversing decision # L0009169744 by concluding that claimant quit work with good cause and was not disqualified from receiving benefits based on the work separation. On March 20, 2025, the employer filed a timely request to reopen the March 13, 2025, hearing. On April 18, 2025, ALJ Parnell conducted a hearing, and on April 23, 2025, issued Order No. 25-UI-290370, allowing the employer's reopen request but again reversing decision # L0009169744 by concluding that claimant quit work with good cause. On April 25, 2025, the employer filed an application for review of Order No. 25-UI-290370 with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: EAB considered the employer's written argument when reaching this decision.

¹ Decision # L0009169744 stated that claimant was denied benefits from December 29, 2024, to January 3, 2026. However, decision # L0009169744 should have stated that claimant was disqualified from receiving benefits beginning December 29, 2024, and until she earned four times her weekly benefit amount. *See* ORS 657.176.

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-290370 allowing the employer's reopen request. That part of Order No. 25-UI-290370 is **adopted**. See ORS 657.275(2).

FINDINGS OF FACT: (1) Northwest Regional Education Service District employed claimant as an early childhood physical therapist from about October 23, 2023, through January 3, 2025.

(2) Claimant performed physical therapy services for children aged zero to five years old within the employer's district. Claimant was assigned to work in Columbia County, Oregon, and was the only early childhood physical therapist working for the employer in that county. At the start of therapy, each patient under claimant's care was given an individualized family service plan (IFSP) that included provisions to which the employer was contractually required to adhere. One provision stated that for patients aged zero to three years old, the child's parents were required to be present when a decision was made regarding the child's treatment; and that for patients aged three to five years old, a team, rather than an individual employee such as claimant, must make decisions regarding the child's treatment. The IFSPs also included provisions that required the employer to treat clients with "a certain amount of frequency," regardless of whether staff coverage was available. March 13, 2025, Transcript at 13. However, the employer was short-staffed, and was not always able to provide the care required of them by their patients' IFSPs. On approximately four occasions, claimant's supervisor asked her to engage in conduct that would have violated both their patients' IFSPs and the Oregon Department of Education's (ODOE) administrative rules that governed the care that claimant provided. Claimant raised her concerns about these practices with her supervisor, but he did not take them seriously. On one occasion, this led to a complaint being made to ODOE, after which claimant and her colleagues were required to retroactively provide services that they had told the supervisor they should have provided in the first place.

(3) On multiple occasions throughout her tenure, claimant was asked by the employer's billing department to bill Medicaid for services that Medicaid did not cover, such as drafting correspondence to patients' parents or having conversations with them. Claimant refused to bill Medicaid for these services and would indicate in her documentation that they were not billable, but the billing department would respond and tell her to bill for the services anyway. Claimant continued to refuse to bill for such services, but found it "mentally draining to constantly have to go forward and prove yourself to do what you feel is right and ethical." March 13, 2025, Transcript at 16. Claimant also raised concerns about this issue with her supervisor, who questioned whether claimant was correct in her assertion that it was unethical to bill for services that weren't billable.

(4) Claimant's contract included a provision allowing her to work from home when she had no field work. Claimant rarely sought to work from home, as most of her work required her to be in the field. Claimant occasionally had days where she was not required to be in the field, however, and wished to work from home when it was feasible. On such occasions, when claimant requested to work from home, "[t]here was usually pushback or asking why [she] was doing so" from her supervisor, despite the fact that other employees were allowed to work from home. March 13, 2025, Transcript at 18. Additionally, claimant's supervisor advised her that she was required to clock in and out for her shifts, despite the fact that she was a salaried employee and had no means of doing so. When claimant raised concerns about this with her supervisor, he was unable to tell her how to proceed. The employer's human resources (HR) department "was aware that there were some concerns with" claimant's supervisor, because he

was new to the role, and “there was a big learning curve for him to transition” into the role. April 18, 2025, Transcript at 37.

(5) In May 2024, claimant “started to have a decline in [her] mental health” because of stress relating to the above concerns, and her related fear that her professional license could be put in jeopardy by the employer’s practices. March 13, 2025, Transcript at 11. Claimant’s symptoms from this stress included panic attacks, as well as anxiety, depression, and a feeling of being “overwhelm[ed].” March 13, 2025, Transcript at 22. As such, claimant began treatment with a psychiatric nurse practitioner, who diagnosed claimant with attention deficit hyperactivity disorder (ADHD), major depressive disorder (MDD), and generalized anxiety disorder (GAD). The nurse practitioner prescribed claimant medication for ADHD, and suggested supplements to manage her other conditions. Claimant also discussed non-medication options for managing her symptoms, such as taking a leave of absence from work, but claimant and the nurse practitioner both realized that doing so would result in claimant returning to the same stressful situation after any such leave of absence ended. Claimant had never previously sought treatment with a mental health professional, and had never experienced panic attacks before working for the employer.

(6) Despite treatment with the nurse practitioner, claimant’s mental health symptoms, particularly the panic attacks, continued to worsen. Claimant considered speaking to her supervisor’s manager, “S,” about the issues she had been experiencing, but decided against doing so because claimant had witnessed or heard of S retaliating against other employees when they filed complaints or grievances about similar issues. On one such occasion, for instance, a union representative was brought to a meeting with S and one of claimant’s coworkers, and the representative specifically warned S “that any sort of backlash would be considered... retaliation as she did have a history of doing that.” April 18, 2025, Transcript at 17. Claimant also decided not to speak to S directly because claimant felt she was “extremely intimidating,” and claimant was concerned that she was not “mentally strong enough to... interact with” S, given S’s history of retaliation against other employees. April 18, 2025, Transcript at 29. Additionally, claimant never spoke to the employer’s human resources (HR) department about these concerns because she was not acquainted with any of the employer’s HR representatives and therefore did not feel comfortable talking to them, not knowing whether or not they would be helpful.

(7) Claimant attempted to transfer to other positions within the employer’s organization, but was unable to find any available positions for which she was qualified.

(8) Around early November 2024, claimant complained to a coworker about some of the management decisions that S had been making. A little while later, S falsely informed several of claimant’s coworkers during a meeting that claimant had a “low caseload” and was “not case managing very many kids,” and that they were “having to bear... heavier burdens because claimant was not... carrying [her] fair share.” April 18, 2025, Transcript at 18, 22. Claimant believed that S conveyed this false information as retaliation for claimant having complained about her to a coworker, and was concerned that she had ended up in S’s “crosshairs.” April 18, 2025, Transcript at 22.

(9) On November 4, 2024, claimant gave the employer notice that she intended to quit on January 3, 2025. Although claimant did not wish to quit because she wanted to continue working with her patients, she quit because of the ongoing mental health symptoms, including regular panic attacks, that she had been experiencing as a result of work-related stress. Claimant gave approximately 60 days’ notice of her resignation because she understood her employment contract to require it.

(10) On January 3, 2025, claimant quit work. After quitting, her mental health symptoms resolved “almost immediately.” April 18, 2025, Transcript at 35.

CONCLUSIONS AND REASONS: Claimant 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 ADHD, GAD, and MDD, permanent or long-term “physical or mental impairments” as defined at 29 CFR §1630.2(h).² 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 due to the mental health symptoms she had been experiencing from work-related stress, including, in particular, regular panic attacks. This stress was the result of various concerns about the employer’s operational practices, such as violations of patients’ IFPSs and related administrative rules, unethical billing practices, and inequitable or retaliatory conduct by management. Given the serious and worsening effects the stress of work was having on claimant’s mental health, claimant faced a grave situation. Furthermore, claimant had no reasonable alternative but to quit.

Although claimant considered taking a leave of absence to address her mental health conditions, doing so would not have been a reasonable alternative to quitting, as the same circumstances which caused or exacerbated those conditions would most likely have been present when she returned to work. Claimant also tried, without success, to transfer to a different position within the organization prior to quitting.

Likewise, talking to one of her superiors or HR would not have been a reasonable alternative to quitting. The record suggests that claimant’s supervisor was, at best, unmoved about claimant’s concerns regarding unethical billing practices, violations of IFSPs, and similar behavior, and may have actually been encouraging claimant to engage in some of these practices. Similarly, S had a history of retaliating against other employees who complained about operational practices, and appeared to retaliate against claimant by spreading misinformation about claimant after she complained about some of S’s managerial decisions to a coworker. Thus, S would most likely not have been open to changing her managerial decisions if claimant had spoken directly to her about them.

And while speaking to HR about her concerns might have eventually resulted in organizational change, the record shows that HR was already aware of at least some of the issues with claimant’s supervisor’s practices, but does not show that HR actually took any steps to address this. S’s habit of retaliating

² The record does not conclusively show when claimant actually received these diagnoses. However, it can be reasonably inferred that she was already suffering from these conditions prior to the date on which she first sought treatment, thus necessitating the treatment she sought. Therefore, at the time claimant quit, she had, more likely than not, been suffering from these conditions for at least eight months, which shows they likely were long-term.

against employees who complained about her decisions was also apparently well-enough known that a union representative, in a meeting with S and one of claimant's coworkers, specifically admonished S against taking retaliatory measures against that coworker. The fact that S's habit of retaliating against employees was well-enough known for this to occur suggests that HR either was aware of her practices but declined to take any action against her, or did not have sufficient authority to take any action against her.

Furthermore, even if HR did have sufficient authority to take action against S or otherwise intervene to stop the practices that claimant was concerned about, claimant's panic attacks and related symptoms had, at the time she quit, been worsening over the preceding eight months or so. Claimant was nevertheless reluctant to quit, as she did not wish to stop providing care for her patients. It can therefore be inferred that she felt, at the time she quit, that her mental health symptoms were sufficiently severe that she could not continue indefinitely enduring the work conditions that caused those symptoms. Under such circumstances, a reasonable and prudent person with ADHD, MDD, and GAD would conclude the same. Thus, claimant has met her burden to show that she quit work for a reason of such gravity that she had no reasonable alternative but to quit.

For the above reasons, claimant quit work with good cause and is not disqualified from receiving unemployment insurance benefits based on the work separation.

DECISION: Order No. 25-UI-290370 is affirmed.

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

DATE of Service: June 2, 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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