

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0257

Reversed
Late Request to Reopen Allowed
Disqualification

PROCEDURAL HISTORY: On November 26, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit work without good cause and therefore was disqualified from receiving unemployment insurance benefits effective September 29, 2024 (decision # L0007447790). Claimant filed a timely request for hearing. On December 31, 2024, the Office of Administrative Hearings (OAH) served notice of a hearing scheduled for January 14, 2025. On January 14, 2025, claimant failed to appear at the hearing, and ALJ Janzen issued Order No. 25-UI-279816, dismissing claimant's request for hearing due to her failure to appear. On February 3, 2025, Order No. 25-UI-279816 became final without claimant having filed a request to reopen the hearing. On February 12, 2025, claimant filed a late request to reopen the hearing. On April 4, 2025, ALJ Janzen conducted a hearing at which the employer failed to appear, and on April 8, 2025, issued Order No. 25-UI-288761, denying claimant's late request to reopen the January 14, 2025 hearing and leaving Order No. 25-UI-279816 undisturbed. On April 27, 2025, claimant filed an application for review of Order No. 25-UI-288761 with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant submitted written arguments on April 27, 2025, and May 20, 2025. EAB did not consider claimant's April 27, 2025 written argument because she did not state that she provided a copy of her argument to the employer as required by OAR 471-041-0080(2)(a) (May 13, 2019). Additionally, both of claimant's arguments contained information that was not part of the hearing record and did not show that factors or circumstances beyond claimant's reasonable control prevented her from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB considered only information received into evidence at the hearing. EAB considered any parts of claimant's May 20, 2025 argument that were based on the hearing record.

FINDINGS OF FACT: (1) Intel Americas, Inc. employed claimant, most recently as an operations director, from July 9, 2001 through September 30, 2024.

(2) For several years prior to 2024, claimant had been frustrated in her role with the employer, as she felt that she had outgrown her role. During that time, claimant applied for several other positions within the company, as she wished to continue working for the employer. However, claimant was not hired for any of the positions for which she applied.

(3) In August 2024, the employer announced that they intended to eliminate approximately 15,000 positions across the company, and invited eligible employees to “apply” for voluntary layoffs. Transcript at 24. The announcement also stated that employees who opted to be voluntarily laid off would be separated from employment on September 30, 2024; and that, after the voluntary layoffs, any remaining balance of staff reductions would be accomplished by involuntarily laying off staff on November 15, 2024. Regardless of whether an employee chose a voluntary layoff or was later involuntarily laid off, the offered severance package would be the same.

(4) After learning of the intended layoffs, claimant spoke to several of her peers, and believed the only way she would likely remain employed after November 15, 2024, was if those peers chose to be voluntarily laid off. Based on this, and discussions with her manager, claimant became convinced that she was likely to be laid off in November 2024 if she did not elect to be voluntarily laid off in September 2024. Additionally, claimant was frustrated by the “toxic” and chaotic work environment that had resulted from the layoff notice, and a sudden change in direction regarding a project she had been working on for approximately six months. Transcript at 25–26. Claimant also felt that, given the significant reduction in staff, there was little likelihood of finding another suitable position within the company. As such, claimant applied to be voluntarily laid off, which the employer accepted on September 5, 2024.

(5) On September 30, 2024, claimant completed her final day of work for the employer, and then left work in accordance with her separation agreement. Had claimant not applied for the voluntary layoff in September 2024, she would have been permitted to continue working for the employer until at least November 15, 2024 and possibly longer.

(6) On December 14, 2024, claimant filed a timely request for hearing on decision # L0007447790. Claimant indicated on her request for hearing that she wished to receive notifications by mail and email. Thereafter, claimant regularly checked her Frances Online account for notifications regarding the hearing, but received no such notifications there. Claimant also visited a WorkSource Oregon office at one point, where a representative told claimant regarding her hearing request “that they could see [her] request [for hearing] was still there in the system[.]” Transcript at 5. Claimant also attempted to contact the Department by phone multiple times regarding the status of her appeal, but was unable to get through to them.

(7) On December 24, 2024, claimant left the country for a personal trip. Claimant placed a hold on her mail for the period of time while she was out of the country.

(8) On December 31, 2024, OAH served notice of a hearing scheduled on decision # L0007447790 for January 14, 2025. The notice of hearing was mailed to claimant’s correct address of record.

(9) On or around January 4, 2025, while she was still on her trip, claimant learned that her mother’s health was failing. On January 6, 2025, claimant returned from her trip. At that time, claimant obtained

her held mail. However, she did not immediately open it, as she received most of her important correspondence electronically and there “typically isn’t a lot of important things that come in the mail.” Transcript at 15. Additionally, upon her return, claimant was immediately concerned with visiting her dying mother, who lived in California.

(10) On January 8, 2025, claimant’s mother died. Following the death of her mother, claimant became “consumed” with the arrangements for her mother’s funeral, including having her mother’s body returned to Oregon and preparing for the visits of multiple out-of-town guests. Transcript at 8.

(11) On January 14, 2025, claimant failed to appear at the hearing because she had not read the notice of hearing and was not aware the hearing had been convened. Also on January 14, 2025, ALJ Janzen issued Order No. 25-UI-279816, dismissing claimant’s request for hearing due to her failure to appear.

(12) On or around January 17, 2025, claimant’s mother’s funeral was held.

(13) On January 22, 2025, claimant sent a message to the Department via Frances Online, requesting an update on the status of her request for hearing. Claimant was not aware at that time that OAH, rather than the Department, schedules and holds hearings. Claimant had either not read or not received the notice of hearing or Order No. 25-UI-279816 at that point. The Department did not respond to claimant’s message until March 25, 2025.

(14) In late January 2025, claimant’s uncle died. On January 31, 2025, claimant flew to New Jersey to attend her uncle’s funeral.

(15) On February 3, 2025, Order No. 25-UI-279816 became final without claimant having filed a request to reopen the hearing.

(16) On February 4, 2025, claimant returned home from New Jersey.

(17) On or around February 10, 2025, claimant opened some of her accumulated mail, found Order No. 25-UI-279816, and realized that she had missed the January 14, 2025 hearing. On February 12, 2025, claimant filed a request to reopen the January 14, 2025 hearing.

CONCLUSIONS AND REASONS: Claimant’s late request to reopen the January 14, 2025 hearing is allowed. Claimant voluntarily quit work without good cause.

Reopen. ORS 657.270(5) provides that any party who failed to appear at a hearing may request to reopen the hearing, and the request will be allowed if it was filed within 20 days of the date the hearing decision was issued and shows good cause for failing to appear. The period within which a party may request reopening may be extended if the party requesting reopening has good cause for failing to request reopening within the time allowed, and acts within a reasonable time. OAR 471-040-0041(1) (February 10, 2012). “Good cause” exists when an action, delay, or failure to act arises from an excusable mistake or from factors beyond an applicant’s reasonable control. OAR 471-040-0041(2). “A reasonable time,” is seven days after the circumstances that prevented a timely filing ceased to exist. OAR 471-040-0041(3). The party requesting reopening shall set forth the reason(s) for filing a late

request to reopen in a written statement, which OAH shall consider in determining whether good cause exists for the late filing, and whether the party acted within a reasonable time. OAR 471-040-0041(4).

The request to reopen the hearing was due by February 3, 2025. Claimant did not file her reopen request until February 12, 2025. Therefore, the request was late. Claimant's reopen request included a written explanation of why she failed to appear at the hearing and why she failed to file a timely request to reopen. *See* Exhibit 3 at 1. Claimant's request therefore followed the requirements of OAR 471-040-0041(4). Nevertheless, the order under review denied claimant's late request to reopen, explaining that "while claimant had turmoil in her life around the time that OAH mailed Order No. 25-UI-279816 to her, it was within her reasonable control to open and address it before the deadline." Order No. 25-UI-288761 at 3. The record does not support this conclusion.

First, claimant's failure to appear at the hearing, and then her failure to file a timely reopen request, was due to her belief that she would receive all of her notices and correspondence regarding her claim electronically, as she had requested when she filed her initial request for hearing. Claimant was mistaken in that belief, in that her election did not apply to documents sent by OAH. However, the record also shows that claimant made multiple efforts to obtain information about the status of her appeal, including attempting to contact the Department by phone, contacting them via Frances Online, and visiting a WorkSource Oregon office. None of these efforts apparently resulted in any information which explained to claimant that she was mistaken in her belief that she would receive electronic notice of the hearing. Additionally, during the relevant time period, claimant was "consumed" by the death of her mother, arrangements for her mother's funeral, and then her uncle's death and funeral a few weeks later. Given the turmoil in claimant's life and the significant, if unsuccessful, efforts she made to obtain information regarding the status of her appeal, claimant's mistaken belief that she would receive electronic notice of the hearing was an excusable mistake. Therefore, claimant had good cause for filing the late reopen request.

Further, claimant filed her reopen request within a reasonable time. On or around February 10, 2025, claimant opened her mail, read Order No. 25-UI-279816, and realized that she had missed the hearing. Claimant filed her reopen request approximately two days later, on February 12, 2025. Therefore, claimant filed her request within seven days of when the circumstances that prevented a timely filing ceased to exist. As such, claimant's late request to reopen the January 14, 2025 hearing is allowed.

Nature of the Work Separation. If the 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).

The employer notified their employees in August 2024 that they were intending to lay off approximately 15,000 employees. The employer offered employees the option to take a voluntary separation on September 30, 2024, before any involuntary layoffs were implemented on November 15, 2024. Claimant chose to voluntarily separate from work on September 30, 2024. At hearing, claimant questioned the conclusion that she voluntarily quit work, asserting that she had been "caught in [a] misclassification" of whether she quit or was laid off due to a lack of work. Transcript at 28. Nevertheless, under OAR 471-030-0038(2)(a), claimant's separation from work was a voluntary leaving.

The record shows that had claimant not chosen the early layoff, the employer would have permitted her to continue to work for at least an additional six weeks after September 30, 2024. Based on her belief that she was almost certainly going to be laid off, claimant elected to be laid off on September 30, 2024. Thus, as of September 30, 2024, claimant was not willing to continue working for the employer for an additional period of time. Because the employer would have allowed claimant to continue working for them, but claimant chose not to do so, the work separation was a voluntary leaving which occurred on September 30, 2024.

Voluntary Quit. 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.

Claimant voluntarily quit work, by way of applying to be voluntarily laid off on September 30, 2024, in advance of a round of involuntary layoffs that she believed would otherwise result in the loss of her job six weeks later. At hearing, claimant described a number of circumstances which motivated her to choose this earlier layoff date, including general dissatisfaction with her position and feeling that she had outgrown it, the chaotic work environment, and a significant change in a project she had been working on for several months.¹ While claimant’s frustration with these circumstances is understandable, she has not shown that she faced a situation of such gravity that she had no reasonable alternative but to quit.

At hearing, claimant did not describe any negative effects that her work frustrations were having on her. A reasonable and prudent person, faced with a general dissatisfaction with their work but without any exacerbating factors resulting from that dissatisfaction, would not quit work under those conditions. This is particularly true given claimant’s belief that she would likely be discharged six weeks later if she did not apply to be voluntarily laid off. Under those circumstances, a reasonable and prudent person would have continued working for the employer as long as possible in order to receive that much additional pay and benefits, rather than quit work under the belief that they would be laid off at a later date.

Because claimant has not met her burden to show that she voluntarily quit work for a reason of such gravity that she had no reasonable alternative but to quit, claimant voluntarily quit work without good cause, and is disqualified from receiving unemployment insurance benefits effective September 29, 2024.

DECISION: Order No. 25-UI-288761 is set aside, as outlined above.

¹ Claimant also testified that her son had been having behavioral and mental health issues around the time the layoffs were announced, and that this contributed to her decision to quit. Transcript at 41–42. Claimant explained that this was not “the sole reason” she quit, and that she “wouldn’t have quit without” the benefits included with the severance package. Transcript at 42. As such, even if claimant’s son’s health issues contributed to her decision to quit, they were not the proximate cause of her decision to quit *at that particular time*, and therefore it is not necessary to discuss that point further here.

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

DATE of Service: June 6, 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.

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

Website: www.Oregon.gov/employ/pages/employment-appeals-board.aspx

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