EO: Intrastate
BYE: 18-Oct-2025

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

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EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0257-R

Reconsideration Allowed
EAB Decision 2025-EAB-0257 Adhered to on Reconsideration
Disqualification

PROCEDURAL HISTORY: On November 26, 2024, 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 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, and on April 8, 2025 issued Order No. 25-UI-288761, denying claimant's late request to reopen the January 14, 2025 hearing, 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). On June 6, 2025, EAB issued EAB Decision 2025-EAB-0257, reversing Order No. 25-UI-288761 by allowing claimant's late request to reopen, cancelling Order No. 25-UI-279816, and affirming decision # L0007447790 on the merits.

On June 19, 2025, claimant filed a request for reconsideration of EAB Decision 2025-EAB-0257, but failed to include a statement that a copy was provided to the opposing party. However, EAB is reconsidering EAB Decision 2025-EAB-0257 on its own motion. This decision is issued pursuant to EAB's authority under ORS 657.290(3).

WRITTEN ARGUMENT: As acknowledged in EAB Decision 2025-EAB-0257, claimant submitted written arguments on April 27 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 did not consider claimant's April 27, 2025 written argument when reaching this decision. EAB considered any parts of claimant's May 20, 2025 argument that were based on the hearing record.

After claimant filed her June 19, 2025 reconsideration request, she submitted a written argument on July 10, 2025. EAB considered claimant's July 10, 2025 argument in reaching this decision. Also on July 10, 2025, claimant sent an email to EAB attaching the documents that were admitted into evidence by the ALJ as Exhibit 4. *See* Order No. 25-UI-288761 at 1. EAB considered the entire hearing record, including witness testimony and exhibits admitted into evidence, including Exhibit 4, in reaching this decision.

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

(2) 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. Under the employer's plan, employees who opted to be voluntarily laid off would be separated from employment on September 30, 2024. After the voluntary layoffs, any remaining balance of staff reductions would be accomplished by involuntarily laying off staff on November 15, 2024. Employees who were laid off received severance pay, which was the same whether an employee opted in to the voluntary layoffs in September or was involuntarily laid off in November.

(3) Under the employer's plan, employees who wished to be considered for a voluntary layoff could apply, the employer would review the applications, and following the review would notify employees whose voluntary layoff applications were accepted. Exhibit 4 at 8. The employer announced in employee forums that they intended to approve as many voluntary layoffs as possible, subject to some limited exceptions, such as business continuity concerns. Exhibit 4 at 8.

(4) After learning of the layoffs, claimant spoke to her manager and determined that if she applied for the September 30, 2024 voluntary layoffs but her peers did not, the employer would likely accept her layoff request. Claimant then "double-checked with [her] . . . peers" and learned that they "were not opting in." Transcript at 29. Based on that information, claimant "was pretty certain" that if she applied to be considered for the September 30, 2024 voluntary layoffs, she would be laid off. Transcript at 29.

(5) For several years prior to 2024, claimant had been frustrated in her role with the employer. Claimant's job was a "significantly reduced scope role" compared to what she had done at other times during her tenure. Transcript at 29. She had applied for other positions within the company in 2021, 2022 and 2023, but was not hired for any of the positions for which she applied. When the employer made their August 2024 layoff announcement, they shared information on their financial situation. Claimant thought it was unlikely "for another role to open . . . for the level where [she] was at . . . for a couple of years[.]" Transcript at 23.

(6) Claimant believed that if she did not elect to take the September 30, 2024 voluntary lay off, she was likely to be laid off in November 2024. Claimant believed her current role was likely to be eliminated in

the November round of layoffs because it "was not intended to be part of the organization in the long term." Transcript at 29.

(7) The employer's layoff announcement created low morale and an environment of uncertainty at the workplace because employees did not know how their teams would be restructured. Claimant had worked on a project for six months prior to August 2024, and with the organizational restructuring that began that month, ownership of the project transferred to a new team. The new team did not intend to use claimant's project. Claimant was dissatisfied with the inefficient workplace environment and change in direction regarding her project.

(8) At the time of the employer's August 2024 announcement, claimant's son had behavioral issues and claimant put him into therapy. Claimant thought that opting for the voluntary layoff would place her in a better position to help her son.

(9) Claimant applied to take the September 30, 2024 voluntary lay off. Claimant did so because she was frustrated with the reduced scope of her role, felt it was unlikely that she would find another job within the company "at the level where [she] was performing," and was dissatisfied with the low morale and inefficiency in the workplace. Transcript at 25. Claimant also felt that her current role would be eliminated and she would be laid off in November 2024, and that leaving in the "first wave" of layoffs would be a "smoother transition." Transcript at 26.

(10) On September 5, 2024, the employer accepted claimant's voluntary layoff application, as claimant anticipated. On September 30, 2024, claimant completed her final day of work for the employer and left work in accordance with her separation agreement.

(11) If claimant had not applied for the voluntary layoff, she would have continued to be employed until at least November 15, 2025, when the next round of layoffs was to occur. By failing to continue to work until that date, claimant gave up six weeks of pay and two months of employer-paid health insurance and other benefits.

CONCLUSIONS AND REASONS: EAB Decision 2025-EAB-0257 is adhered to on reconsideration, as clarified herein. Claimant quit work without good cause.

Reconsideration. ORS 657.290(3) authorizes the Employment Appeals Board to reconsider any previous decision of the Employment Appeals Board, including "the making of a new decision to the extent necessary and appropriate for the correction of previous error of fact or law." "Any party may request reconsideration to correct an error of material fact or law, or to explain any unexplained inconsistency with Employment Department rule, or officially stated Employment Department position, or prior Employment Department practice." OAR 471-041-0145(1) (May 13, 2019). The request is subject to dismissal unless it includes a statement that a copy was provided to the other parties, and is filed on or before the 20th day after the decision sought to be reconsidered was mailed. OAR 471-041-0145(2).

On June 6, 2025, EAB issued EAB Decision 2025-EAB-0257. On June 19, 2025, claimant filed a request for reconsideration. The request for reconsideration was filed within 20 days of the mailing of EAB Decision 2025-EAB-0257. However, it did not include a statement that a copy was provided to the

opposing party. However, EAB can reconsider its previous decisions on its own motion. It is warranted to do so here to consider the arguments contained in claimant's July 10, 2025 written argument that relate to the nature of her work separation and disqualification from benefits, and to elaborate on and clarify EAB's conclusions and reasons regarding those points. Reconsideration therefore is allowed on EAB's own motion.

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, and in her July 10, 2025 written argument, claimant conceded that she applied for the voluntary layoff but asserted that whether she was laid off remained the employer's decision to make. Transcript at 20, 30; Claimant's July 10, 2025 Written Argument at 1, 2-3. Claimant argued that if the employer had not accepted her application, she would have remained employed, and so was willing to continue to work for the employer and therefore was discharged. Claimant's July 10, 2025 Written Argument at 1.

Claimant's separation from work was a voluntary leaving. It is correct that under the employer's plan, employees who wished to be considered for the voluntary layoffs could apply, the employer would review the applications, and following the review would notify employees whose voluntary layoff applications were accepted. However, the employer made known that they intended to approve as many voluntary layoffs as possible, subject to some limited exceptions. Further, claimant was "pretty certain" that if she applied for a voluntary layoff, she would be laid off because claimant had confirmed with her peers that they "were not opting in" for the September 30, 2024 voluntary layoffs, and her manager had told her that the employer would likely accept her layoff request if her peers did not apply. Transcript at 29. After verifying that acceptance of her voluntary lay-off application was likely, claimant applied and was accepted as she anticipated.

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. By applying for a voluntary layoff, which she knew was likely to be accepted, claimant elected to be laid off on September 30, 2024. Because the employer would have allowed claimant to continue working for them, and claimant could have done so by not pursuing a voluntary layoff, the work separation was a voluntary leaving that occurred on September 30, 2024.

Concluding that the work separation was a voluntary leaving is also appropriate under applicable case law. Here, that claimant offered to separate from employment by applying for the voluntary layoff and that the employer agreed to the offer by accepting claimant's application, demonstrates that the parties mutually agreed to the work separation. Case law holds that where an employee and employer mutually

agree to separate, the work separation is a voluntary leaving. *See Employment Department v. Shurin,* 154 Or App 352, 356, 959 P2d 637 (1998), quoting *Smith v. Employment Division,* 34 Or App 623, 627, 579 P2d 310 (1978) ("We have consistently held that, where the employer and the employee have 'agreed upon a mutually acceptable date on which employment would terminate,' the termination should be treated as a 'voluntary leaving' and not as a 'discharge.'"); *see also J.R. Simplot Co. v. Employment Division,* 102 Or App 523, 528, 795 P2d 579 (1990); *Schmelzer v. Employment Division,* 57 Or App 759, 646 P2d 650, rev den 293 Or 521 (1982).

Accordingly, under both OAR 471-030-0038(2) and controlling case law, the work separation was a voluntary leaving that occurred on September 30, 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) (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 quit work by applying to be voluntarily laid off on September 30, 2024, before a round of involuntary layoffs that she believed would otherwise result in the loss of her job six weeks later. Claimant chose the voluntary layoff because she felt that she would be laid off in November 2024 anyway, and so believed that leaving in the "first wave" of layoffs would be a "smoother transition." Transcript at 26. Claimant also was frustrated with the reduced scope of her role, felt it was unlikely that she would find another job within the company "at the level where [she] was performing," and was dissatisfied with the low morale and inefficiency in the workplace. Transcript at 25.

Claimant quit work without good cause to the extent she left work because she believed she would be involuntarily laid off in November 2024. That claimant was likely to be laid off on a future date did not present her with a grave situation. Claimant could have declined to pursue the earlier layoff, remain employed, and then either be subjected to the involuntary mid-November 2024 layoff on the same terms as the voluntary layoff, or if she was not chosen for the involuntary layoff, simply continue working.[1]

Claimant did not gain any material benefit by taking the voluntary layoff in September 2024 rather than waiting to be involuntarily laid off. For a claimant to have good cause to voluntarily leave work, the claimant must derive some benefit from leaving work. *See Oregon Public Utility Commission v. Employment Dep't.*, 267 Or App 68, 340 P3d 136 (2014). As claimant acknowledged at hearing, rather than benefitting, claimant "lost to a certain extent" by choosing the earlier layoff date. Transcript at 27. The severance package was the same whether claimant chose the voluntary layoff or was later laid off

[1] Claimant testified that she understood from a human resources meeting that if an employee did not opt in to the voluntary layoff, and then was *not* involuntarily laid off, but during restructuring was placed into a job they did not want, they could no longer take the severance package. Transcript at 30. While it is possible that if claimant had declined the voluntary layoff, the employer might not have involuntarily laid her off but instead placed in a job she did not want, where she would not be able to take severance, it is too speculative to conclude here that that outcome would have occurred.

involuntarily. If claimant had not applied for the voluntary layoff, she would have continued to be employed until at least November 15, 2024. By failing to continue to work until that date, claimant gave up six weeks of pay and two months of employer-paid health insurance and other benefits.[2]

Claimant's frustrations with the scope of her role and her inability to find another job within the company at her experience level also did not establish good cause to quit. At hearing, claimant testified that she viewed her job as a "luxury" that her manager had been "generous in even creating," but that she had "outgrown" the role and opted to be voluntarily laid off because there was no other job to be promoted into. Transcript at 22, 23. Claimant anticipated her job would be eliminated in the November round of layoffs, and thought it unlikely for a job at her experience level to open for some time thereafter. However, nothing prevented claimant from remaining in her job as of when she quit on September 30, 2024. Claimant failed to articulate any harm that would result from staying in her job, testifying only that "it didn't feel great being in that role because it was a significantly reduced scope role than what I was capable of and what I should have been in." Transcript at 29. Thus, while the scope of claimant's role and her inability to find another job at her experience level was understandably frustrating, these circumstances did not present claimant with a situation of such gravity that she had no reasonable alternative but to leave work when she did.

Similarly, claimant quit work without good cause to the extent that she quit because of her dissatisfaction with workplace morale and the new team's decision not to use her project. At hearing, claimant testified that the employer's layoff announcement created an environment of uncertainty and that it was difficult to get work done because other employees would not show up for meetings. Transcript at 25-26. Claimant also testified that she had worked on a project for six months prior to August 2024, and that ownership of the project transferred to a new team who did not intend to use the project. Transcript at 23-24. However, claimant conceded that she remained able to conduct her work under these circumstances, and it was merely that the work she was doing amid the low morale and following the project transfer "really wasn't significant meaningful work." Transcript at 26. The workplace inefficiency and decision to not use her project were regrettable. However, performing work in which her abilities were not used optimally and amid the unpleasantness of low morale did not present claimant with a situation of gravity. Claimant did not prove that she had no reasonable alternative but to leave work because of these circumstances.

Finally, claimant failed to meet her burden to prove that she quit work with good cause to the extent she quit because of her son's behavioral issues. At the time of the employer's August 2024 layoff announcement, claimant's son had behavioral issues and claimant put him into therapy. Claimant thought that opting for the voluntary layoff would place her in a better position to help her son. At hearing, however, claimant explained that her son's condition was not "the sole reason" she quit, and that she "wouldn't have quit without" the benefits included with the severance she received when she chose to be laid off. Transcript at 42. As such, the record suggests that claimant's son's behavioral issues

[2] The case law cited in claimant's July 10, 2025 written argument is inapposite. *See* Claimant's July 10, 2025 Written Argument at 4. *McDowell v. Employment Department,* 348 Or 605, 612, 236 P3d 722 (2010), is inapt because the voluntary leaving in that case benefitted the claimant in that it enabled him to avoid harm to his future job prospects from being discharged. *Roadhouse v. Employment Department,* 283 Or. App. 859, 391 P.3d 887 (2017), is not on point because it involved the nature of the work separation and reversed EAB's determination that the claimant in that case voluntarily left work. *Henley v. Employment Department*, 284 Or. App 781, 395 P.3d 55 (2017), is not applicable because it involved a claimant who quit work because of racial discrimination and safety concerns.

were not the proximate cause of her decision to quit. Moreover, claimant failed to establish the precise nature or severity of her son's condition, explain how her leaving work would benefit her son, or prove that her son could not be benefitted just as well by a reasonable alternative to claimant leaving work. Accordingly, claimant failed to show by preponderance of the evidence that she faced a situation of such gravity based on her son's condition that she had no reasonable alternative but to leave work when she did.

For the reasons discussed above, claimant quit work without good cause and is disqualified from receiving benefits beginning September 29, 2024.

DECISION: Reconsideration is allowed. EAB Decision 2025-EAB-0257 is adhered to as clarified herein.

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

DATE of Service: July 31, 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 – 本判决会影响您的失业救济金。 如果您不明白本判决， 请立即联系就业上诉委员会。 如果您不同意此判决，您可以按照该判决结尾所写的说明，向俄勒冈州上诉法院提出司法复审申请。

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 ໄດ້ ໂດຍປະຕິບັດຕາມຄຳແນະນຳທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄຳຕັດສິນນີ້.

Arabic

هذا القرار قد يؤثر على منحة البطالة الخاصة بك، إذا لم تفهم هذا القرار، إتصل بمجلس منازعات العمل فورا، و إذا كنت لا توافق على هذا القرار، يمكنك رفع شكوى للمراجعة القانونية بمحكمة الإستئناف 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 دستورالعمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

Employment Appeals Board - 875 Union Street NE | Salem, OR 97311
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