EO: Intrastate
BYE: 11-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-0259-R

Request for Reconsideration Allowed
EAB Decision 2025-EAB-0259 Adhered to on Reconsideration

PROCEDURAL HISTORY: On October 31, 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 13, 2024 (decision # L0006932335).[1] Claimant filed a timely request for hearing. On January 27, 2025, and continuing on March 3 and April 11, 2025, ALJ Lucas conducted a hearing, and on April 11, 2025, issued Order No. 25-UI-289269, affirming decision # L0006932335 by concluding that claimant was discharged for misconduct and therefore disqualified from receiving benefits effective October 13, 2024. On April 28, 2025, claimant filed an application for review with the Employment Appeals Board (EAB). On June 4, 2025, EAB issued EAB Decision 2025-EAB-0259, affirming Order No. 25-UI-289269. On June 23, 2025, claimant filed a timely request for reconsideration of EAB Decision 2025-EAB-0259. This decision is issued pursuant to EAB's authority under ORS 657.290(3).

FINDINGS OF FACT: (1) Providence Health & Services Oregon employed claimant, most recently as a clinic care coordinator, from September 24, 2007 through October 16, 2024.

(2) In November 2023, claimant began a period of maternity leave. She returned to work on June 11, 2024. Prior to her return, claimant requested that the employer allow her to work remotely full-time until her mother, who lived out of state, moved to Oregon to assist with childcare. The employer agreed to allow claimant to work remotely for two months.

(3) On July 22, 2024, claimant gave her supervisor a list of requested days off for religious observances over the next twelve months, as she had done annually throughout her employment. Claimant believed

[1] Decision # L0006932335 stated that claimant was denied benefits from October 13, 2024 to October 11, 2025. However, decision # L0006932335 should have stated that claimant was disqualified from receiving benefits beginning Sunday, October 13, 2024 and until she earned four times her weekly benefit amount. *See* ORS 657.176.

that some of these days off coincided with days that her coworkers had requested off, and that after submitting the list, "everybody's tone and demeanor changed with [her]" and this made claimant "uncomfortable." January 27, 2025 Transcript at 15. Claimant's supervisor had accommodated all requests for time off since 2016 when she became the supervisor, and intended to accommodate these requests even if they coincided with days other employees had requested off.

(4) On August 6, 2024, the employer notified claimant that they expected her to return to a hybrid schedule and work in-person on Monday, Wednesday, and Friday of each week beginning September 6, 2024. On August 13, 2024, a meeting was held between claimant and management to discuss claimant's return to hybrid work. By that point, claimant's plan for her mother to relocate to Oregon and provide childcare had fallen through and claimant felt that it was "hard to find daycare that's suitable." January 27, 2025 Transcript at 12. The employer therefore extended the start date of the hybrid schedule to September 23, 2024 to allow her additional time to make childcare arrangements. This expectation was reiterated to claimant in an email that day following the meeting. On August 13, 2024, claimant replied to the email, stating, "I will not be returning in person on 9/23 or anytime soon." January 27, 2025 Transcript at 23.

(5) On September 20, 2024, the employer sent a letter to claimant by FedEx reiterating their expectation that claimant begin working the hybrid schedule on September 23, 2024. Claimant received the letter but continued to work from home on and after September 23, 2024. Claimant was unwilling to return to in-person work until September 2029, when her child would be old enough to enroll in school. On October 2, 2024, the employer sent another letter to claimant stating that she must begin the hybrid work schedule or resign by October 16, 2024. Claimant received the letter.

(6) On October 16, 2024, claimant worked from home. At the end of the workday, the employer notified claimant that she was discharged for failing to report for work in-person.

(7) On June 4, 2025, EAB issued EAB Decision 2025-EAB-0259, affirming Order No. 25-UI-289269. On June 23, 2025, claimant filed a timely request for reconsideration of EAB Decision 2025-EAB-0259.

CONCLUSIONS AND REASONS: Claimant's request for reconsideration is allowed. EAB Decision 2025-EAB-0259 is adhered to on reconsideration.

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).

Claimant's request for reconsideration was filed within 20 days of the date EAB Decision 2025-EAB-0259 was mailed, included a statement that a copy was provided to the employer, and requested correction of alleged material errors of fact or law. Therefore, claimant's request met the threshold

requirements for consideration, and is allowed. However, for the reasons explained below, EAB Decision 2025-EAB-0259 is adhered to on reconsideration.

Discharge. 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). A conscious decision not to comply with an unreasonable employer policy is not misconduct. OAR 471-030-0038(1)(d)(C).

The employer discharged claimant because she refused to return to in-person work under a hybrid schedule following maternity leave, as the employer expected her to do. In her request for reconsideration, claimant did not dispute that she willfully violated this expectation, but asserted, as she did at hearing, that her actions were justified. Claimant suggested in her request for reconsideration that the employer's expectation of hybrid work was unreasonable because it conflicted with her childcare plans and, alternately, that the employer improperly denied her fully-remote work for reasons relating to her religion. *See* Request for Reconsideration at 4. The record does not support these assertions, and claimant has failed to demonstrate that EAB erred in concluding as much in EAB Decision 2025-EAB-0259.

Regarding claimant's assertion of religious discrimination, the record shows that claimant's position had been classified as hybrid for several years preceding the events of 2024. This hybrid designation applied equally to all employees holding the same or similar positions, with temporary exceptions made for one employee based on an established need for an ADA accommodation, and another temporarily granted to claimant for two months to make alternate arrangements for child care following maternity leave. Claimant's temporary authorization was extended another two months as the employer unsuccessfully attempted to persuade claimant to abide by the hybrid work requirement after the initial two-month period ended. The employer's witness testified that their insistence on claimant abiding by the hybrid work schedule was, in large part, "to be fair to all [the] rest of the staff" required to follow that schedule. March 3, 2025 Transcript at 33.

Near the end of the initial two-month fully-remote period, claimant submitted to the employer a list of dates she was requesting to be off work over the next year for religious observances, which the employer summarily granted, as they had in every prior year for more than a decade. Claimant asserted that following this request, she noticed a negative change in the "tone and demeanor" of the people she worked with and attributed it, without further evidence, to the request for time off. January 27, 2025 Transcript at 15. However, claimant's supervisor testified that she did not engage in or observe any change in attitude toward claimant at that time. March 3, 2025 Transcript at 44. Under the circumstances, even if claimant's coworkers displayed a perceptible change in attitude, it was more

likely related to claimant being allowed to temporarily work a fully-remote schedule while hybrid work was mandated for them, rather than due to opposition to the routine granting of claimant's annual request for time off for religious observances. Claimant identified no additional evidence in the record to rebut the reasonable inference that the timing of the request for days off and the expiration of the two-month temporary remote work authorization was merely coincidental. Therefore, EAB Decision 2025-EAB-0259 did not err in concluding that the employer's expectation that claimant return to hybrid work was not motivated by religious discrimination.

As to claimant's assertion that the hybrid work policy was unreasonable as applied to her due to circumstances surrounding childcare, she also failed to identify additional evidence in the record supporting this assertion. During claimant's maternity leave, she expected her mother to move to Oregon to provide childcare while claimant was working. In August 2024, claimant advised the employer that this plan had fallen through, and her temporary fully-remote work authorization was extended to September 23, 2024 for claimant to make alternate arrangements. Claimant testified that it was "hard to find daycare that's suitable," but the record fails to show what efforts claimant made in that regard or why they were unsuccessful. January 27, 2025 Transcript at 12. The record suggests that claimant's insistence on working from home to provide care herself for the first five years of her child's life was a matter of preference rather than necessity. As such, EAB Decision 2025-EAB-0259 did not err in concluding that the employer's expectation that claimant return to hybrid work was not unreasonable based on claimant's childcare needs.

Accordingly, the employer's expectation that claimant return to a hybrid work schedule was reasonable, as a standard of behavior that an employer has the right to expect of an employee. Claimant willfully violated that expectation beginning on September 23, 2024, and continued to violate it despite the employer's repeated directions to report for in-person work through October 16, 2024, when the employer discharged claimant for that reason. Therefore, EAB Decision 2025-EAB-0259 did not err in concluding that claimant was discharged for misconduct and was disqualified from receiving unemployment insurance benefits effective October 13, 2024.

For these reasons, claimant's request for reconsideration is allowed, and EAB Decision 2025-EAB-0259 is adhered to on reconsideration.

DECISION: Claimant's request for reconsideration is allowed. EAB Decision 2025-EAB-0259 is adhered to on reconsideration.

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

DATE of Service: <u>July 29, 2025</u>

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.

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