

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0264

Reversed
No Disqualification

PROCEDURAL HISTORY: On February 24, 2025, 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 January 26, 2025 through October 18, 2025 (decision # L0009382551). Claimant filed a timely request for hearing. On April 21, 2025, ALJ Honea conducted a hearing at which the employer failed to appear, and on April 22, 2025, issued Order No. 25-UI-290909, modifying decision # L0009382551 by changing the disqualification period to be effective from January 26, 2025, until requalified under law. On May 1, 2025, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: EAB considered claimant's argument in reaching this decision.

FINDINGS OF FACT: (1) Walmart Associates, Inc. employed claimant as a fulfillment associate from February 7, 2024 until January 27, 2025. Claimant worked 15 hours per week, and was paid \$16.00 per hour.

(2) The employer expected that their employees would request time off at least three weeks in advance, and claimant understood that expectation.

(3) On January 16, 2025, claimant received a written offer of employment from Southern Oregon Children and Family Council (the prospective employer). The offer was for 40 hours of work per week at a rate of \$29.23 per hour. The letter stated that within two weeks claimant needed to provide a transcript, submit to a drug test and physical examination, and sign an agreement regarding training. Claimant was certain that she could fulfill the requirements. The position was expected to start on February 5 or 10, 2025. Claimant decided to accept the position.

(4) Claimant lived approximately four hours away from the prospective employer and intended to sell her house to relocate for the new position. Claimant therefore needed to pack her belongings, prepare her home for sale, secure temporary housing in the new location, and work with real estate agents in the

new location to search for permanent housing. Claimant would also have to travel to the prospective employer's area to submit to the drug test and physical examination within two weeks or the offer would be rescinded.

(5) The prospective employer scheduled the drug test and physical examination during the week of January 26, 2025, on a date that claimant would normally have performed work for the employer. Claimant believed that the employer would not grant her time off due to their three-week notice policy.

(6) On approximately January 19, 2025, claimant gave notice to the employer of her intent to resign, effective January 26, 2025 in order to comply with the prospective employer's scheduling. Claimant selected this, rather than a later date, also because she knew that she would need to make several trips to and from the prospective employer's area over the next few weeks to satisfy the job offer, prevent the rescission of the offer and in furtherance of relocating prior to the start of the new job. Claimant did not work for the employer after January 26, 2025.

(7) On January 30, 2025, claimant received an email from the prospective employer setting her start date as February 11, 2025. Claimant made several trips to the prospective employer's area between separating from the employer and the start date of the new job.

CONCLUSIONS AND REASONS: Claimant voluntarily 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). 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.

A claimant who leaves work to accept an offer of other work "has left work with good cause only if the offer is definite and the work is to begin in the shortest length of time as can be deemed reasonable under the individual circumstances. Furthermore, the offered work must reasonably be expected to continue, and must pay [either] an amount equal to or in excess of the weekly benefit amount; or an amount greater than the work left." OAR 471-030-0038(5)(a).

Claimant quit working for her part-time employer after receiving an offer of other full-time work. The order under review concluded that claimant quit to accept that offer, which was not "definite" because it had unfulfilled contingencies at the time, and therefore quit without good cause pursuant to OAR 471-030-0038(5)(a). Order No. 25-UI-290209 at 2. The record does not support that claimant quit at the time she did to *accept* the offer, but did so to prevent losing the offer of full-time employment and fulfill the requirements associated with the offer, which she could not otherwise do.

The prospective employer provided claimant with a written offer of work on January 16, 2025. The offer was contingent on, among other things, passing a drug test and physical examination within two weeks.

Claimant lived four hours from where the prospective employer was located and was required to travel there to fulfill these contingencies. Moreover, at the time the offer was made, the job had a definite start date of the first two weeks of February, though the specific date of February 11, 2025 was not set until January 30, 2025.

The drug test and physical examination were ultimately set by the prospective employer during the week of January 26, 2025, on a day which claimant would have been required to work for the employer. Claimant could not have requested the day off from the employer under their usual policy because they required three weeks' notice for such a request. Claimant also had numerous tasks to accomplish regarding her relocation to the prospective employer's area during that week, with an anticipated start date as early as the middle of the following week. Because the offered position was full-time, in contrast to the 15 hours per week claimant worked for the employer, and paid nearly double the wage, a reasonable and prudent person in these circumstances would quit the part-time work in order to pursue the full-time employment. Therefore, claimant quit work when she did because continuing to work for the employer during the week of January 26, 2025 would have prevented her from doing what was necessary to secure a definite offer of full-time work. Thus, OAR 471-030-0038(5)(a) is inapplicable, and under the standard good cause analysis set forth in OAR 471-030-0038(4), claimant faced a grave situation.

Furthermore, claimant had no reasonable alternative to leaving work. Claimant did not ask the employer if she could be allowed time off during the week of January 26, 2025 to travel for the drug test and physical examination, and engage in other tasks necessary to the relocation. However, it is reasonable to infer that claimant presumed the employer would deny such a request, given their three-week notice requirement for time off requests and that the request would be made in furtherance of changing employers. Under these circumstances, it is more likely than not that such a request would have been futile, leaving claimant facing the grave situation of either willfully violating the employer's expectation that she report for work during the week, or having the offer of other work revoked. Accordingly, claimant had no reasonable alternative but to leave work when she did, and quit with good cause.

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

DECISION: Order No. 25-UI-290209 is set aside, as outlined above.

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

DATE of Service: June 6, 2025

NOTE: This decision reverses the ALJ's order denying claimant benefits. Please note that in most cases, payment of benefits owed will take about a week for the Department to complete.

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، می توانید با استفاده از دستورالعمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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