

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0304

Affirmed
Disqualification

PROCEDURAL HISTORY: On April 14, 2025, 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 # L0010300600).¹ Claimant filed a timely request for hearing. On May 14, 2025, ALJ Parnell conducted a hearing at which the employer failed to appear, and on May 20, 2025, issued Order No. 25-UI-292769, affirming decision # L0010300600. On May 22, 2025, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant filed written arguments on May 23, 2025, and May 27, 2025. EAB did not consider claimant's May 23, 2025, argument because he did not state that he provided a copy of his argument to the employer as required by OAR 471-041-0080(2)(a) (May 13, 2019). Additionally, both 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 him 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 27, 2025, argument that were based on the hearing record.

FINDINGS OF FACT: (1) Intel Americas, Inc. employed claimant as a senior marketing manager from February 6, 2024, through September 30, 2024. Claimant had previously worked for the employer in a different role from 2018 through 2023.

(2) In or around August 2024, the employer announced that they intended to lay off approximately 15 to 20 percent of their global workforce. After announcing this, the employer notified their employees that they could elect an early retirement package, for those who were eligible or choose to be voluntarily laid

¹ Decision # L0010300600 stated that claimant was denied benefits from September 29, 2024, to March 7, 2026. However, decision # L0010300600 should have stated that claimant was disqualified from receiving benefits beginning Sunday, September 29, 2024, and until he earned four times his weekly benefit amount. See ORS 657.176.

off on September 30, 2024, and notified them that some employees would be involuntarily laid off on November 15, 2024. Employees who accepted a voluntary layoff would be given a severance package which included severance pay and a one-year continuation of their health benefits.

(3) After the layoffs were announced, claimant's manager told claimant that, as part of a restructuring of claimant's team, the manager would be stepping down from his role and moving back into an individual contributor role on the team. Claimant believed this would have the effect of creating a significant overlap in duties between claimant and his then-manager, and was concerned that this would lead to the employer determining that claimant's role was redundant. Additionally, from having previously worked for the employer, claimant knew that the employer typically chose to first lay off employees with less seniority. Based on these considerations, claimant believed that if he did not choose to be voluntarily laid off on September 30, 2024, he would most likely be involuntarily laid off on November 15, 2024. The employer did not tell claimant in advance whether he would have been involuntarily laid off if he did not choose the voluntary option.

(4) Claimant elected to be voluntarily laid off. In addition to his belief that he was otherwise likely to be involuntarily laid off, claimant also decided to be voluntarily laid off because he believed doing so would give him a head start on his job search. On September 30, 2024, claimant voluntarily left work per the terms of his severance agreement.

CONCLUSIONS AND REASONS: Claimant voluntarily quit work without good cause.

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).

Claimant left work on September 30, 2024, per the terms of his severance agreement, and to avoid potentially being involuntarily laid off in November 2024. Despite this, claimant asserted that he was "constructively discharge[d]" because the employer's "actions made continued employment untenable for any reasonable person." Claimant's May 27, 2025, Written Argument at 1. Although claimant's position is understandable, the record shows that the work separation was a voluntary leaving.

Importantly, ORS Chapter 657 does not recognize "constructive discharge" as a type of work separation for purposes of determining unemployment insurance eligibility. Instead, the applicable law recognizes work separations as being either a voluntary leaving or a discharge. That determination turns primarily on whether the respective parties would have allowed the employment relationship to continue for an additional period of time. Here, the employer gave claimant the option of either leaving of his own accord on September 30, 2024, or waiting until November 15, 2024, to find out if he was to be involuntarily laid off. As such, the employer was willing to allow claimant to continue working for them for *at least* another six weeks past September 30, 2024, even though claimant may have otherwise been discharged after those six weeks concluded.

Claimant chose the former option and elected to leave work on September 30, 2024, despite the fact that the employer would have allowed him to continue working for *at least* another six weeks. Thus, even

though claimant would presumably have preferred not to be at risk of the employer potentially laying him off in November 2024, claimant chose to leave work while continuing work was still available to him. As such, claimant was not willing to continue working for the employer for an additional period of time. The work separation was therefore 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). “[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. Per OAR 471-030-0038(5)(b)(A), leaving work without good cause includes “leaving suitable work to seek other work.”

Claimant voluntarily quit work on September 30, 2024, because he believed he otherwise would be laid off on November 15, 2024, and wished to have a head start on his job search. To be clear, while claimant speculated that he would likely have been laid off on November 15, 2024, the record does not show that the employer informed claimant that he would be laid off on November 15, 2024. Therefore, claimant’s decision to quit was based on speculation. Under the applicable provisions of OAR 471-030-0038, this did not constitute good cause for quitting.

To the extent that claimant quit work to seek other work, he quit without good cause under OAR 471-030-0038(5)(b)(A). That provision bars concluding that an individual quit work with good cause if the work the individual left was suitable.² There is no indication in the record that claimant’s position as a senior marketing manager was not suitable for him. Therefore, claimant left suitable work, at least in part, to look for other work, which is not good cause.

To the extent that claimant quit work because he believed that he would be involuntarily laid off if he did not do so, this also did not constitute good cause for quitting. At the time that he chose the voluntary layoff option, claimant did not know for certain whether he would be laid off by the employer. Given that the employer intended to reduce up to 20% of their global workforce, it can be reasonably inferred from the record that the number of employees who would be involuntarily laid off by the employer in November 2024 may have been reduced or otherwise impacted by the number of employees who chose to voluntarily separate from the employer before that date. However, even if claimant knew for certain that he would be involuntarily laid off in November if he did not accept the voluntary layoff, this still would not have been a reason of such gravity that he had no reasonable alternative but to quit work when he did.

² “In determining whether any work is suitable for an individual, the Director of the Employment Department shall consider, among other factors, the degree of risk involved to the health, safety and morals of the individual, the physical fitness and prior training, experience and prior earnings of the individual, the length of unemployment and prospects for securing local work in the customary occupation of the individual and the distance of the available work from the residence of the individual.” ORS 657.190.

Aside from taking more time to look for work (which, as discussed above, is not good cause for quitting), claimant did not show either that he stood to lose anything by continuing to work for another six weeks, or that he gained anything in particular by leaving when he did. For instance, while claimant's severance agreement included both pay and paid health benefits, the record does not show that the same compensation would not have been available to claimant as part of a severance package if he had instead waited for the employer to initiate an involuntary lay off in November 2024. As such, claimant has not shown that he faced a situation of gravity because he risked losing the severance package if he did not voluntarily separate from the employer when he did.

Likewise, while claimant suggested in his written argument that continuing to work for the employer would have been "untenable for any reasonable person," claimant did not actually show that anything about his employment circumstances would have made it untenable for him to work for the employer for at least another six weeks. Without such a showing, it cannot be said that a reasonable and prudent person would not have continued working for the employer for an additional period of time. Therefore, to the extent that claimant quit work because he believed that he would be involuntarily laid off in the future if he did not do so, he did not quit for a reason of such gravity that he had no reasonable alternative but to quit.

Accordingly, claimant voluntarily quit work without good cause, and is therefore disqualified from receiving unemployment insurance benefits effective September 29, 2024.

DECISION: Order No. 25-UI-292769 is affirmed.

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

DATE of Service: June 25, 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.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveygizmo.com/s3/5552642/EAB-Customer-Service-Survey>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.



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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