

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0310

Reversed
No Disqualification

PROCEDURAL HISTORY: On January 29, 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 December 29, 2024 (decision # L0008940791).¹ Claimant filed a timely request for hearing. On April 30, 2025, ALJ Bender conducted a hearing, and on May 8, 2025, issued Order No. 25-UI-291771, affirming decision # L0008940791. On May 27, 2025, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Amafleet LLC employed claimant as a delivery driver from October 2024 through January 5, 2025. The employer operated as a delivery service partner (“DSP”) for an Amazon distribution center (“DPD8”) in Hillsboro, Oregon. Exhibit 1 at 1. Other DSPs also operated at DPD8. Per Amazon’s internal policy, delivery drivers were not permitted to be simultaneously employed by more than one DSP.

(2) At the time of hire, claimant was aware that the employer planned to cease their operations at DPD8 in the near future, and that the employer would thereafter operate solely at a different Amazon distribution center (“DPD2”) in Portland, Oregon.

(3) At a team meeting on December 23, 2024, the employer announced to their employees, including claimant, that they would be ceasing operations at DPD8 as of January 5, 2025, and that employees would have to either transfer to DPD2 or resign.

(4) On December 28, 2024, the employer sent claimant and other employees a message on their Slack channel reiterating that the employer would be ceasing their operations at DPD8 as of January 5, 2025,

¹ Decision # L0008940791 stated that claimant was denied benefits from January 5, 2025, to July 12, 2025. However, because decision # L0008940791 found that claimant quit on January 4, 2025, it should have stated that claimant was disqualified from receiving benefits beginning Sunday, December 29, 2024, and until he earned four times his weekly benefit amount. *See* ORS 657.176.

and that the last day employees would be working there was January 4, 2025. Exhibit 1 at 1. The message also stated, “All Delivery Associates are eligible to transfer to employment with Amafleet LLC at the station location in Portland OR (DPD2). If you elect not to accept a position with Amafleet LLC at Portland OR we encourage you to apply for positions with other local DSPs that may be hiring, including Aloha Fleet LLC. Please let us know your decision, whether it be staying at DPD8, transferring to DPD2, or resigning, no later than Sunday 12/29, 11:00 PM.” Exhibit 1 at 1. Shortly thereafter, claimant responded, in relevant part, “Thank you for the information on ongoing employment. I would like to pursue staying at DPD8, including Aloha Amafleet. [J]ust wondering how to find the application information[.]” Exhibit 1 at 1. Claimant did so because he would have preferred to continue working at DPD8 because it was more convenient for him. However, claimant was also willing to continue working for the employer by transferring to DPD2.

(5) Thereafter, the employer included claimant’s name on a list of employees sent to Aloha Fleet LLC, which was still operating at DPD8 in Hillsboro, to facilitate the hiring of those employees by the other DSP.

(6) As of January 3, 2025, claimant had not heard from Aloha Fleet LLC. For this reason, claimant contacted the employer’s operations manager that day to ask her if he should continue to work for the employer at DPD2 in Portland because he had not heard from Aloha Fleet LLC and wished to continue working. The operations manager responded by telling claimant, in relevant part, “[W]hen we offered you to stayed [*sic*] with our company that was declined since you wanted to stay in DPD8. We had communicated with our HR person and will off-board you from our company on January 5th, this way when you get hired at another company they can do onboarding for you without any issues. I had communicated with Aloha Fleet and gave a list of everyones [*sic*] who is interested in applying and your information. They will reach out to you and set up interviews!” Exhibit 1 at 2. Claimant did not tell the employer during this interaction, or at any other point, that he intended to quit or was otherwise unwilling to continue working for them.

(7) On January 4, 2025, claimant worked his final shift for the employer. On January 5, 2025, the employer “offboarded” claimant so that he could be hired by another DSP that operated at DPD8. Transcript at 18. As of that date, claimant remained willing to work for the employer at DPD2.

CONCLUSIONS AND REASONS: Claimant was discharged, but not for misconduct.

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). “Work” means “the continuing relationship between an employer and an employee.” OAR 471-030-0038(1)(a) (September 22, 2020).

The parties disputed the nature of the work separation. At hearing, claimant denied that he had quit, explaining that he was instead “looking to . . . what the plan was to continue [employment] with [the employer] or any of the other fleet companies [or] contractors that were at the Hillsboro location.” Transcript at 5. By contrast, the employer’s witness, their operations manager, asserted that claimant had quit “since he wanted to stay at the Hillsboro [location] and try to work for the other company[.]”

Transcript at 14. The order under review appeared to take the employer's view, concluding that claimant quit because he "gave up his position with the employer because he expected to be hired by another company providing delivery services at DPD8." Order No. 25-UI-291771 at 3. The record does not support this conclusion.

The record shows that the employer notified claimant and other employees that the employer would be ceasing operations at DPD8 on January 5, 2025; that the employees' last day of work at DPD8 would therefore be on January 4, 2025; and that the employees were required to notify the employer whether they wished to "stay" at DPD8, transfer to DPD2, or resign. Claimant responded by notifying the employer that he wished to "pursue staying at DPD8, including Aloha Amafleet." The employer appeared to have taken this statement to mean that claimant wished to resign so that he could pursue employment with another employer. Despite this, claimant never told the employer either that he was resigning or that he was unwilling to continue working for the employer at DPD2.

To be clear, by indicating that he wished to continue working at DPD8, claimant told the employer that he was interested in pursuing employment elsewhere. However, a mere expression of interest in working for another employer is not the same as a decision to end an employment relationship. Indeed, the record shows that while claimant would have preferred to stay at DPD8 (which would have required him to work for a different employer), he was nevertheless willing to continue working for the employer at DPD2.

The employer apparently did not seek clarification from claimant as to whether he wished to immediately end the employment relationship with them, however. Instead, they made the decision to end the employment relationship by directing their HR department to "off-board" claimant after claimant expressed his interest in staying at DPD8. They did not tell claimant of this until after it occurred, thus foreclosing his ability to continue working for them even though he was interested in doing so. As such, the *employer* ended the employment relationship by refusing to allow claimant to continue working for them after January 4, 2025, when their operations at DPD8 ceased. Therefore, the work separation was a discharge which occurred on January 5, 2025, when the employer "off-boarded" claimant.

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).

As explained above, the employer discharged claimant when they "off-boarded" him after ceasing operations at DPD8. This was the result of the employer's misinterpretation of claimant's expression of interest in moving to work for a different DSP. The record does not show that claimant's discharge was

the result of any act or omission on his part that constituted a willful or wantonly negligent violation of the employer's standards of behavior, or a willful or wantonly negligent disregard of the employer's interests. As such, the employer discharged claimant, but not for misconduct, and claimant is not disqualified from receiving unemployment insurance benefits based on the work separation.

DECISION: Order No. 25-UI-291771 is set aside, as outlined above.

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

DATE of Service: June 30, 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.



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 باتباع 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

The Oregon Employment Department is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Language assistance is available to persons with limited English proficiency at no cost.

El Departamento de Empleo de Oregon es un programa que respeta la igualdad de oportunidades. Disponemos de servicios o ayudas auxiliares, formatos alternos y asistencia de idiomas para personas con discapacidades o conocimiento limitado del inglés, a pedido y sin costo.