

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0314

Affirmed
No Disqualification

PROCEDURAL HISTORY: On April 18, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged, but not for misconduct, and therefore was not disqualified from receiving unemployment insurance benefits based on the work separation (decision # L0010299796). The employer filed a timely request for hearing. On May 20, 2025, ALJ Murray conducted a hearing and issued Order No. 25-UI-292822, affirming decision # L0010299796 by concluding that claimant voluntarily quit work with good cause and therefore was not disqualified from receiving benefits based on the work separation.¹ On May 27, 2025, the employer filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Coos County School District #9 employed claimant as a teacher at one of their schools from August 2024 through March 21, 2025. Claimant had previously worked for the employer as an educational assistant, starting in 2018, and returned to the employer as a teacher after obtaining a graduate degree.

(2) In or around the middle of November 2024, claimant was called into a meeting in the office of the school's principal. The principal and other members of leadership present in the meeting told claimant that she had not been meeting the expectations of her role, and placed claimant on a performance improvement plan (PIP) that required her to meet goals relating to these expectations, such as student data tracking. The deadline to complete these goals was January 17, 2025.

(3) Claimant accepted the employer's feedback and intended to attempt to meet the goals set forth in the PIP. However, shortly after the November 2024 meeting, the employer moved claimant from her classroom in the school, where she taught multiple students, to an off-campus location to work with a single special-education student. Claimant would ultimately stay at this assignment until February 5,

¹ Although Order No. 25-UI-292822 stated it modified decision # L001299796 by concluding that claimant had voluntarily quit and was not discharged, it affirmed that decision because the outcome remained the same regardless of how the work separation was characterized. Order No. 25-UI-292822 at 4.

2025. While she was at this assignment, claimant was, necessarily, away from her regular classroom and not engaged in her regular teaching duties. As a result, claimant was during that time unable to complete many of the goals of the PIP, which were related to work she would perform in her regular classroom.

(4) On January 30, 2025, claimant again met with the school's leadership, who informed her that she had not met the goals, related to student data-tracking and other classroom-related duties, set forth for her in the PIP. The employer further informed claimant that she would be put on a new PIP which required her to meet all of the previously-unmet goals by February 28, 2025, and that her failure to do so would result in a recommendation that claimant's contract not be renewed for the following school year.

(5) Claimant spoke to the principal to try to work out a solution, but this effort was unsuccessful. Additionally, claimant sought a transfer to a different position in the district, but was unsuccessful in that effort as well.

(6) Some time after the January 30, 2025, meeting, claimant requested that her union representative meet with the employer's human resources (HR) director and claimant's supervisor to discuss claimant's employment status and find a solution to the employer's concerns. The union representative did so, and afterwards informed claimant that there was nothing that she could do for claimant. The representative further explained that claimant could either resign or continue with the PIP and risk being discharged.

(7) After receiving her union representative's advice, claimant decided to resign. She did so because this was her first teaching position, and she believed that being discharged would prevent her from being able to find another job as a teacher elsewhere.

(8) On February 24, 2025, claimant notified the employer that she would be resigning effective March 21, 2025. On March 21, 2025, claimant voluntarily quit work to avoid being discharged, so that she would not be prevented from continuing to work as a teacher elsewhere. At the time that claimant quit, the employer had not yet decided whether they would discharge claimant.

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.

Per OAR 471-030-0038(5)(b)(F), leaving work without good cause includes "resignation to avoid what would otherwise be a discharge for misconduct or potential discharge for misconduct."

Claimant voluntarily quit work to avoid being discharged, as she believed that her future employment prospects as a teacher would be impeded if she was discharged from her teaching position. The

employer did not rebut claimant's assertion that being discharged would have made it difficult or impossible for her to find other work as a teacher, and claimant's belief on this point is therefore taken as accurate. Additionally, while claimant's pending discharge was not certain at the time she quit, the record shows that the employer would more likely than not have discharged claimant if she had not quit.

During the January 30, 2025, meeting, the employer told claimant that they would discharge her if claimant did not meet the goals set forth in the most recent PIP. Some time after this meeting, claimant's union representative met with the employer's HR director and claimant's supervisor to address claimant's employment status and the employer's concerns. After this meeting, claimant was informed by the union representative that there was nothing more the union representative could do for her, she could either resign or continue with the PIP and risk the discharge. Given that the employer reassigned claimant to a different location where she was unable to complete the terms of the previous PIP shortly after that PIP was issued, and then disciplined her for not completing it, claimant had good reason to believe that she would likely be unable to complete the most recent PIP to the employer's satisfaction within the period of time allotted. As such, and because of the serious effect that being discharged would have on claimant's future job prospects, claimant's situation was grave. *See McDowell v. Employment Dep't.*, 348 Or 605, 236 P3d 722 (2010) (claimant had good cause to quit work to avoid being discharged, not for misconduct, when the discharge was imminent, inevitable, and would be the "kiss of death" to claimant's future job prospects); *Dubrow v. Employment Dep't.*, 242 Or App 1, 252 P3d 857 (2011) (a future discharge does not need to be certain for a quit to avoid it to qualify as good cause; likelihood is not dispositive of the issue but it does bear on the gravity of the situation).

Because claimant quit to avoid a potential discharge, it is also necessary to determine whether claimant's potential discharge would have been for misconduct, as quitting to avoid discharge or potential discharge for misconduct is not good cause under OAR 471-030-0038(5)(b)(F).² The record shows that it would not have been. The employer had been contemplating discharging claimant because they felt that she was not performing adequately in her role, although the record does not actually show that claimant objectively failed to meet any of the requirements of her role. Even assuming that the employer's assessment of claimant's performance was correct, however, the record also does not show that claimant's failure to meet the employer's performance standards, in her first teaching position, was due to willful or wantonly negligent conduct on claimant's part. Therefore, claimant's alleged performance deficiencies were, at worst, the results of a "mere inefficiency resulting from lack of job skills or experience," which under OAR 471-030-0038(3)(b) is not misconduct. As such, claimant's potential discharge is not a bar to a finding of good cause for quitting.

Finally, claimant had no reasonable alternative but to quit. After the January 30, 2025, meeting, claimant's union representative attempted to intercede with the employer, but was unable to negotiate any other options for claimant. Claimant also spoke to the principal herself to try to work out a solution,

² *See generally* ORS 657.176(2)(a), which requires a disqualification from unemployment insurance benefits if the employer discharged claimant for misconduct connected with work; OAR 471-030-0038(3)(a), defining misconduct as a "willful or wantonly negligent violation of the standards of behavior which an employer has the right to expect of an employee" or "an act or series of actions that amount to a willful or wantonly negligent disregard of an employer's interest"; OAR 471-030-0038(1)(c), defining "wantonly negligent" as "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."

and sought a transfer to a different position in the district, but neither effort was successful. The only remaining alternative would have been to continue attempting to meet the terms of the most recent PIP in an attempt to avoid discharge. Because claimant had reason to believe that she would not be successful in her efforts, and because of the risk to her future job prospects if she was not successful, this was not a reasonable alternative to quitting. As such, claimant pursued all reasonable alternatives before quitting. Claimant therefore quit work for a reason of such gravity that she had no reasonable alternative but to quit.

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

DECISION: Order No. 25-UI-292822 is affirmed.

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

DATE of Service: June 27, 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.

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