EO: Intrastate
BYE: 28-Feb-2026

State of Oregon
Employment Appeals Board
875 Union St. N.E.
Salem, OR 97311

249
VQ 005.00

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0352

Reversed & Remanded

PROCEDURAL HISTORY: On April 4, 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 from February 23, 2025 to March 1, 2025 (decision # L0010127153). Claimant filed a timely request for hearing. On May 8, 2025, ALJ Honea conducted a hearing, and on May 21, 2025 issued Order No. 25-UI-292928 modifying decision # L0010127153 by concluding that claimant voluntarily quit work without good cause and therefore was disqualified from receiving benefits effective February 23, 2025 and until requalified. On June 9, 2025, claimant filed an application for review with the Employment Appeals Board (EAB).

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

EVIDENTIARY MATTER: At hearing, after the ALJ began taking testimony, the ALJ stated that she would hold the record open for the employer to submit its proposed exhibit until the day after the hearing, May 9, 2025. Transcript at 25. A few minutes later, the employer's witness emailed the proposed exhibit, 14 pages of documents consisting of the employer's December 10, 2024 and February 11, 2025 notices of proposed discipline regarding claimant. Transcript at 25, 34. On May 9, 2024, claimant objected to admission of the employer's documents based on not having been served with them prior to the start of the hearing. The ALJ marked the employer's document as Exhibit 2 and excluded it because the employer did not serve the documents on claimant prior to the hearing. Order No. 25-UI-292928 at 1.

A review of the documents contained in Exhibit 2 show that they contain relevant and material information and may be necessary to resolve disputed issues in this case. Given that the documents may be needed for resolution of the issues in this case, as well as that claimant will have the opportunity to rebut or add any necessary context to the documents at the hearing on remand, the documents are necessary to complete the record. As such, EAB is receiving the documents contained in Exhibit 2 into evidence as necessary to complete the record pursuant to OAR 471-041-0090(1)(a) (May 13, 2019).

The additional evidence contained in Exhibit 2 is being marked as EAB Exhibit 1, and a copy provided to the parties with this decision. Any party that objects to our admitting EAB Exhibit 1 must submit such objection to this office in writing, setting forth the basis of the objection in writing, within ten days of our mailing this decision. OAR 471-041-0090(2). Unless such objection is received and sustained, the exhibit will remain in the record.

At the remand hearing, the parties may seek to offer testimonial evidence from additional witnesses not present at the first hearing, such as claimant's supervisor or assistant director of the airport, who may offer evidence material to the disputed factual issues in this case. The parties may also offer new documentary information into evidence at the remand hearing, including video tapes, if any. At that time, it will be determined if the new information will be admitted into the record. The parties must follow the instructions on the notice of the remand hearing regarding documents or video they wish to have considered at the hearing. These instructions will direct the parties to provide copies of such documents to the ALJ and the other parties in advance of the hearing at their addresses as shown on the certificate of mailing for the notice of hearing.

FINDINGS OF FACT: (1) The City of Eugene employed claimant at their regional airport, most recently as an airport operations duty officer, from February 12, 2019 until March 2, 2025. Claimant was a member of a union.

(2) The employer prohibited insubordination and expected employees to complete job duties as assigned and to be honest and truthful in the workplace and during internal investigations.

(3) In 2017, Congress enacted a law requiring aviation workers at airports to be screened for weapons and incendiary devices in a manner similar to how airline passengers are screened at airport security checkpoints. Initially, Transportation Security Administration (TSA) agents performed aviation worker screenings at the employer's airport. In 2024, TSA transferred the aviation worker screening responsibilities to the airport itself, and airport operations duty officers like claimant were assigned the task.

(4) The aviation workers subject to the screenings were badged, meaning they had passed background checks, received training on prohibited items, and were authorized to access sensitive areas of the airport. In August 2024, the employer developed procedures for the screenings, with opportunities for claimant and the other duty officers to provide feedback. The employer trained claimant on how to use the screening equipment and he and the other duty officers began practicing aviation worker screening in August 2024. The duty officers were to take over the aviation worker screenings from TSA staff on September 25, 2024. Although claimant received training on how to use the screening equipment, he felt insufficiently trained.

(5) Claimant was also responsible for doing vehicle inspections at the airport, which had been part of his job duties since his promotion to duty officer in August 2022.

(6) On September 25, 2024, claimant and a coworker screened an aviation worker. During the screening, claimant believed the worker unzipped his pants, pulled the bottom of his t-shirt through the open zipper, and asked "if this is what [claimant and the coworker] were looking for." Transcript at 10.

(7) On October 6, 2024, claimant sent an email to the employer stating that the employer needed to "immediately cease" aviation worker screenings and vehicle inspections. Exhibit 1 at 1. The email listed concerns claimant had with the aviation worker screenings. First, claimant asserted that he had safety concerns because he was "being asked to detain and/or apprehend criminals" but had not received self-defense training and law enforcement was not present during the screenings. Exhibit 1 at 1. Next, claimant posited that the screenings exposed him to liability because he was "being asked to violate citizens fourth amendment constitutional rights" but was not being afforded immunity from lawsuits. Exhibit 1 at 1. Third, claimant complained that his job should be reclassified because he was not a law enforcement officer or security officer and believed that the aviation worker screenings were security duties that city employees should not perform. Fourth, claimant complained that he had not received formal training on how to inspect a vehicle, person, or bag. Claimant then asserted that all the concerns he had raised about aviation worker screening also applied to vehicle inspections. Claimant implied that he did not intend to conduct the aviation worker screenings or vehicle inspections, stating, "I'm more than happy to perform all duties as assigned when, I have been properly trained and employee safety has been taken into account." Exhibit 1 at 2.

(8) On October 7, 2024, claimant did an inspection of a vehicle and called a police officer to be with him while he did so. Later that day, claimant told the assistant director of the airport that he had called the officer to be there.

(9) Because clamant had implied that he would not do aviation worker screenings or vehicle inspections in his October 6, 2024 email and had conducted a vehicle inspection on October 7, 2024 after calling an officer, the employer determined that an investigation was necessary to determine whether claimant had violated workplace policies.

(10) The employer held investigatory meetings with claimant in October and November 2024. On December 10, 2024, the employer provided claimant a memorandum of the investigation and notice of discipline. The employer concluded that claimant had allegedly been insubordinate, dishonest, and uncooperative in their investigation. The employer determined that disciplining claimant was justified and suspended him from work for 40 hours.

(11) The employer alleged claimant had been insubordinate in suggesting that he would not do aviation worker screenings or vehicle inspections in his October 6, 2024 email. The employer alleged that claimant had been dishonest in describing the conduct of the worker who was screened on September 25, 2024. The employer believed camera footage showed the worker from the front without his shirt showing through his zipper. The employer also believed that another duty officer who was present and had conducted the screening denied claimant's account that the worker had pulled his shirt through his zipper and made a lewd comment.

(12) Claimant disagreed with the discipline and filed a union grievance regarding it. Claimant and the employer held a resolution meeting in January 2025. During the meeting, claimant mentioned that the reason he called a police officer to assist with the October 7, 2024 vehicle inspection was because the vehicle's driver made a comment about having empty C4 cans, an apparent joking reference to the energy drink of that name. The employer thought that reason for asking for the officer's assistance was inconsistent with what claimant had previously stated regarding why he asked for the officer's assistance, and caused the employer to conduct a second investigation. The employer then determined

that claimant had not conducted a complete inspection when he inspected the vehicle on October 7, 2024. The employer believed this was the case because the inspection was of a bread truck with numerous racks but lasted only 2 and a half minutes and the employer's inspection checklist called for all racks to be inspected.

(13) On February 11, 2025, the employer provided claimant a second notice of discipline. The employer alleged that claimant had been dishonest in his explanation for why he called the officer to assist with the October 7, 2024 vehicle inspection and had failed to conduct a complete inspection on that date. The notice of discipline proposed terminating claimant's employment and gave claimant until February 25, 2025 to respond to the charges.

(14) Although the employer gave claimant an opportunity to respond, they intended to discharge claimant pursuant to the notice of discipline.

(15) On February 25, 2025, claimant sent the employer an email advising of his intent to resign effective March 2, 2025. Claimant's letter cited his "ongoing safety concerns" as his reason for resigning. Transcript at 15. Another reason claimant quit was that the employer was "pursuing terminating [him]" and claimant concluded that "rather than being terminated or trying to fight them anymore, . . . [he] need[ed] to quit." Transcript at 15.

(16) On March 2, 2025, claimant quit working for the employer, as planned.

CONCLUSIONS AND REASONS: Order No. 25-UI-292928 is set aside, and this matter remanded for further proceedings consistent with this order.

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), leaving work without good cause includes:

> * * *
>
> (F) Resignation to avoid what would otherwise be a discharge for misconduct or potential discharge for misconduct;
> * * *

The order under review concluded that claimant quit work without good cause. Order No. 25-UI-292928 at 3-4. The record as developed does not support this conclusion.

Additional development of the record is necessary to determine whether claimant voluntarily quit work without good cause. One reason claimant quit work was due to his concerns about conducting the aviation worker screenings and vehicle inspections.

As to aviation worker screenings, to develop the record regarding safety concerns, the ALJ should ask the parties to explain the procedure to be followed when a prohibited item is discovered during a screening, such as whether claimant was expected to detain the worker in that scenario or instead if claimant was to call the police or take some other action. To assess whether not having self-defense training or lack of police presence during the screenings presented a situation of gravity, the ALJ should ask whether the badged workers subject to the screenings, who had passed background checks and been trained on prohibited items, were likely to be carrying weapons or incendiary devices while at work in the airport. The ALJ should ask how frequently prohibited items were discovered on screened workers when the task was carried out by TSA. The ALJ should ask the same after duty officers like claimant took over the task. The ALJ should inquire how many times claimant performed aviation worker screenings prior to his resignation, and whether he ever discovered a prohibited item.

Regarding claimant's concern that the screenings exposed him to liability, the ALJ should ask whether the employer was required to defend and indemnify claimant from lawsuits arising from the performance of his duties. Regarding claimant's concern that his job should have been reclassified, the ALJ should inquire whether and, if so, how the existing classification of claimant's job presented him with a situation of such gravity that he had no reasonable alternative but to quit. Regarding claimant's concern that he had received inadequate training, the ALJ should inquire about the nature and scope of the training claimant had received relating to how to use the screening equipment. The ALJ should inquire why he believed that training was not adequate to perform the screening task. The ALJ should ask, even if receiving more training was desirable, how the lack of it placed claimant in a situation of such gravity that he had no reasonable alternative but to quit when he did.

As to vehicle inspections, the ALJ should ask what, if anything, about the vehicle inspections presented claimant with a situation of gravity at the time of his resignation, given that the inspections had been part of claimant's job duties since his promotion to airport operations duty officer in August 2022. The ALJ should ask the parties to describe the procedure claimant was to follow when inspecting vehicles, including what steps claimant was to follow if he discovered a prohibited item. The ALJ should ask how frequently prohibited items had been discovered during vehicle inspections in the time leading up to claimant's resignation. The ALJ should inquire of the circumstances when prohibited items were discovered such as whether drivers had, for example, firearms in their vehicles for personal protection that they inadvertently failed to remove before arriving at the airport, and whether drivers had been cooperative in giving up the prohibited items when discovered. The ALJ should also ask whether police officers were available to assist with uncooperative drivers or other dangerous situations.

As to both the aviation worker screenings and the vehicle inspections, the ALJ should ask questions about the reasonable alternatives to quitting that may have been available to claimant. To that end, the ALJ should inquire whether it was possible to obtain additional training, reclassify the job, or obtain indemnification from potential lawsuits by working with management in a less confrontational manner than his October 6, 2024 email or by pursuing a union remedy such as a grievance or modification of the collective bargaining agreement.

Another reason claimant resigned was that the employer was "pursuing terminating [him]" and claimant concluded that "rather than being terminated or trying to fight them anymore, . . . [he] need[ed] to quit." Transcript at 15. At hearing, the witness for the employer described claimant's work separation as a "quit in lieu of termination" and stated that claimant's discharge was imminent. Transcript at 17. It is therefore possible that this case is governed by case law holding that a person may quit work with good cause where the impending discharge would not be for misconduct, the discharge is imminent, and it would impair the individual's future job prospects. *See McDowell v. Employment Dep't*., 348 Or 605, 236 P3d 722 (2010).

As to this reason for claimant's resignation, to assess whether *McDowell* applies, the ALJ should first ask whether claimant quit to avoid the impact a discharge would have on his future job prospects, as opposed to a different reason. If claimant states on remand that he resigned to avoid the harm a discharge would have on his ability to find a new job, the ALJ should ask claimant to explain how, if at all, being discharged would have impaired his ability to find a new job, compared to resigning.

From there, the ALJ should ask questions of the parties to assess whether the discharge would have been for misconduct. This is necessary to determine the applicability of OAR 471-030-0038(5)(b)(F), by enabling an evaluation of whether claimant quit to avoid what would otherwise be a discharge for misconduct. To this end, the ALJ should ask questions to confirm that claimant understood that insubordination was prohibited and that the employer expected him to complete job duties as assigned and to be honest and truthful in the workplace and during internal investigations.

Next, the ALJ should ask questions to determine whether the final incidents resulting in the discharge were willful or wantonly negligent violations. The existing record shows that the basis for the employer's intent to discharge claimant was the employer's belief that claimant had been dishonest in his explanation for why he called the officer to assist with the October 7, 2024 vehicle inspection and that claimant had failed to conduct a complete inspection on that date.

The ALJ should ask claimant why he asked a police officer to assist him with the vehicle inspection on October 7, 2024. The ALJ then should ask the parties what claimant told the employer his reason was for asking for the officer's assistance: (1) when he told the assistant director on October 7, 2024 that he had asked the officer to assist, (2) when the employer questioned claimant about the matter during the first investigation in October and November 2024, and (3) when the employer questioned claimant about the matter during the second investigation in January 2025. The ALJ should ask claimant whether he knew the driver's C4 reference was intended as a joke and, if so, whether calling in an officer for assistance in that scenario was a violation of the employer's policies. The ALJ should then ask questions regarding whether claimant conducted a complete inspection when he inspected the vehicle on October 7, 2024. The ALJ should ask the parties whether the inspection checklist called for all the bread racks to be checked, and, if so, how claimant could have inspected all racks during the two-and-a-half-minute inspection.

After conducting questioning on the final incidents, a determination of whether the discharge would have been for misconduct requires the ALJ to inquire as to prior alleged misconduct, because it will be necessary to assess the applicability of whether the final incidents were isolated instances of poor judgment under OAR 471-030-0038(3)(b). On December 10, 2024, the employer issued a notice of discipline that concluded claimant allegedly had been insubordinate, dishonest, and uncooperative in

their investigation. The employer alleged claimant had been insubordinate in suggesting that he would not do aviation worker screenings or vehicle inspections in his October 6, 2024 email.

Although claimant implied that he would not do aviation worker screenings or vehicle inspections in his October 6, 2024 email, the ALJ should ask the parties to clarify whether claimant actually ever refused to perform an aviation worker screening or vehicle inspection and if so, when. The ALJ should also ask claimant if he intended the email to convey that he would not perform the aviation worker screenings or vehicle inspections. Further, the employer believed that on October 6, 2024, claimant emailed the assistant director of the airport in a separate email advising that he would not conduct aviation worker screenings that day. EAB Exhibit 1 at 2. The employer also believed that claimant told the assistant director in a telephone conversation that day that he would not be performing vehicle inspections but that police officers should do the inspections because of safety concerns. EAB Exhibit 1 at 2. The ALJ should also inquire about this alleged separate October 6, 2024 email. The employer should ask claimant whether he sent the email to the assistant director and what the email said. Further, the ALJ should ask claimant whether he told the assistant director in a telephone conversation that day that he would not be performing vehicle inspections but that police officers should do the inspections because of safety concerns.

The employer also alleged that claimant had been dishonest in describing the conduct of the worker who was screened on September 25, 2024. At hearing, claimant asserted that the worker unzipped his pants, pulled the bottom of his t-shirt through the open zipper, and asked "if this is what [claimant and the coworker] were looking for." Transcript at 10. In contrast, the employer believed camera footage showed the worker from the front without his shirt showing through his zipper. The employer also believed that another duty officer who was present and had conducted the screening denied claimant's account that the worker had pulled his shirt through his zipper and made a lewd comment. On remand, the ALJ should inquire whether all the witnesses to the September 25, 2024 screening were interviewed, what they said occurred, and if anyone present corroborated claimant's account. The ALJ should ask the employer what aspects of the video footage, such as the camera angle or availability of audio, caused them to conclude that claimant had fabricated his account. The ALJ should inquire whether the employer interviewed other individuals claimant asserted the worker discussed the screening with, such as a police officer and two airfield workers. If the employer interviewed those individuals, the ALJ should ask what those individuals said the worker said occurred during the screening. If the employer did not interview those individuals, the ALJ should ask why they did not.

Following these inquiries, if the record shows claimant's discharge would not have been for misconduct, the ALJ should ask any further questions necessary to assess the applicability of the holding of *McDowell*.

ORS 657.270 requires the ALJ to give all parties a reasonable opportunity for a fair hearing. That obligation requires the ALJ to ensure that the record developed at the hearing shows a full and fair inquiry into the facts necessary to consider all the issues before the ALJ. ORS 657.270(3); *see accord Dennis v. Employment Division,* 302 Or 160, 728 P2d 12 (1986). Because further development of the record is necessary to decide whether claimant quit work with good cause, Order No. 25-UI-292928 is reversed and this matter remanded to the Office of Administrative Hearings for another hearing and order.

DECISION: Order No. 25-UI-292928 is set aside, and this matter remanded for further proceedings consistent with this order.

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

DATE of Service: July 25, 2025

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 25-UI-292928 or return this matter to EAB. Only a timely application for review of the order mailed to the parties after the remand hearing will return this matter to EAB.

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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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