

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0383

Reversed
No Disqualification

PROCEDURAL HISTORY: On April 15, 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 January 26, 2025 through May 3, 2025 (decision # L0010240139). Claimant filed a timely request for hearing. On May 29, 2025, ALJ Murray conducted a hearing, and on June 4, 2025, issued Order No. 25-UI-293984, modifying decision # L0010240139 by concluding that claimant voluntarily quit work without good cause, and was disqualified from receiving benefits effective January 12, 2025 and until requalified under Department law. On June 24, 2025, claimant filed an application for review of Order No. 25-UI-293984 with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant submitted two written arguments on June 24, 2025, and the employer submitted a written argument on July 11, 2025. Both parties' arguments contained information that was not part of the hearing record and did not show that factors or circumstances beyond their reasonable control prevented them 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 both parties' arguments that were based on the hearing record.

FINDINGS OF FACT: (1) Dari-Mart Stores, Inc. employed claimant as a manager-in-training from June 10, 2024 through January 15, 2025. Claimant worked at several of the employer's retail locations.

(2) In March 2023, claimant suffered a heart attack, resulting in a diagnosis of atrial fibrillation and requiring the placement of a coronary stent. In June 2023, claimant suffered another heart attack. Claimant's heart condition required regular follow-ups with her medical providers, and continued through the end of her employment. The condition interfered, to some extent, with her ability to perform some of her duties.

(3) Throughout the course of her employment, claimant's supervisor made comments to claimant that claimant perceived as "hostile," such as, for instance, "out of all of the [15 to 16] stores [claimant had]

worked at . . . nobody liked [claimant] and nobody wanted to work with [claimant].” Transcript at 14–15. The supervisor later repeated to claimant that if claimant got promoted and was given her own store to manage, claimant would have to work alone “because nobody will work with you.” Transcript at 23–24.

(4) On August 25, 2024, claimant woke up and found herself unable to move due to neck pain. Claimant took four days off work to deal with the matter, and received a diagnosis of stenosis of the cervical spine. One of claimant’s medical providers suggested that she might need a spinal fusion, but claimant first pursued more conservative treatment such as physical therapy, chiropractic care, and acupuncture. Claimant booked appointments with these providers several weeks in advance so that she could receive consistent treatment. Claimant’s spinal condition and the need for treatment persisted through the end of her employment, and the condition interfered with her ability to perform some of her duties.

(5) Shortly after the episode on August 25, 2024, claimant spoke to the employer’s human resources (HR) director at the time and asked about applying for medical leave via the Oregon Family Leave Act (OFLA) or the Family Medical Leave Act (FMLA), such that she could take the time needed to attend her medical appointments. The HR director told claimant that she had not worked for the employer long enough to qualify for protected leave under OFLA or FMLA. Claimant also asked the HR director if she would need to specifically request time off work for each medical appointment, but the HR director told claimant that it was not necessary to do so. Claimant did not apply for benefits via Paid Leave Oregon, although she may have been eligible in or around September 2024, because she did not believe that she needed paid time off from work to attend her medical appointments.

(6) Sometime after the August 25, 2024 episode, claimant’s supervisor told claimant that she would have to move her medical appointments so that they did not conflict with claimant’s working hours. Claimant did so, rescheduling all her appointments to 3:00 p.m. or later so that they would take place after her shift, despite this resulting in a delay in her medical treatment. Sometime after that, claimant’s supervisor moved claimant to a later shift, causing claimant’s medical appointments to again conflict with her schedule.

(7) In or around late October 2024, the employer’s HR director, to whom claimant had previously spoken about FMLA eligibility, left the company. The position was vacant for approximately a month before a new HR director was hired. After speaking to the former HR director in August 2024, claimant never contacted HR about her concerns again, as she was not sure who would be available to speak to her, and she did not want to “make too many waves and end up . . . losing [her] job[.]” Transcript at 22–23.

(8) Claimant addressed concerns about her supervisor’s behavior with the manager of claimant’s primary store on more than one occasion, but believed that the manager was “super friendly” with her supervisor and would not do anything to address the matter. Transcript at 16. Additionally, because the culture of the store was “very gossipy,” claimant felt as if she could not tell the manager anything in confidence. Transcript at 16.

(9) On January 15, 2025, claimant’s supervisor called her into a meeting. During that meeting, the supervisor informed claimant that “a write-up was coming,” but claimant did not know why she would be written up. Transcript at 13. Additionally, the supervisor told claimant that the employer could no

longer accommodate claimant's medical appointments "because [she] had too many." Transcript at 6. At that point, claimant felt that the supervisor had "targeted" her, and "like [she] had to choose the job or [her] health" because of the supervisor's stated unwillingness to accommodate claimant's medical appointments. Transcript at 6–7. For these reasons, claimant voluntarily quit work on that day.

(10) At the time claimant quit, had claimant contacted the HR director, the HR director may have investigated claimant's need for time off to attend medical appointments, and might have intervened so that claimant could be granted leave or other accommodations to attend her medical appointments.

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). Claimant had atrial fibrillation and spinal stenosis, permanent or long-term "physical or mental impairments" as defined at 29 CFR §1630.2(h). A claimant with an impairment who quits work must show that no reasonable and prudent person with the characteristics and qualities of an individual with such impairment would have continued to work for their employer for an additional period of time.

Claimant voluntarily quit work after her supervisor told her that the employer could no longer accommodate claimant's medical appointments. This led claimant to feel she had to choose between her job or her health. Given the seriousness of claimant's conditions and the ongoing care those conditions required, the employer's refusal to accommodate her need to attend medical appointments constituted a grave situation, as it could have put her health at risk of further decline.¹ The order under review concluded the same, but further concluded that claimant quit without good cause because she failed to seek reasonable alternatives to quitting, such as discussing the matter with HR, "pursuing formal accommodations, and inquiring about or applying for medical leave." Order No. 25-UI-293984 at 4. The record does not support the conclusion that claimant failed to seek reasonable alternatives.

To be clear, had claimant sought help from the HR director prior to quitting, the record suggests that the HR director might have helped claimant obtain accommodations (such as protected intermittent leave, perhaps through Paid Leave Oregon) so that she could attend her medical appointments. However, given the context of claimant's previous interactions with HR, her supervisor, and her manager, a reasonable and prudent person suffering from claimant's long-term conditions would have concluded that doing so would be futile. The record shows that after making her initial series of appointments, claimant's supervisor directed her to reschedule the appointments so that they would not conflict with her work schedule. Claimant did so, even though it resulted in a delay in her treatment. After doing so, claimant

¹ The record suggests that claimant's decision to quit may have also been motivated, in part, by her supervisor's hostility and the belief that the supervisor was "targeting" her. Nevertheless, while claimant had been dealing with the supervisor's hostility for some time, claimant quit immediately after the supervisor told her that the employer would no longer accommodate claimant's medical appointments. As such, the record shows that the proximate cause of her decision to quit was the refusal to accommodate her appointments.

was moved to a different schedule which again conflicted with her medical appointments. Further, claimant's previous attempt at seeking help from the then-HR director appeared to yield no meaningful results, and the HR director position was subsequently vacant for a month during the period leading up to claimant's resignation.

Considering the above, it was reasonable for claimant to believe her supervisor when she told claimant that the employer could no longer accommodate her medical appointments. Likewise, even if the new HR director might have helped claimant had claimant contacted her, claimant's previous experiences gave her no reason to believe that HR would offer such help. As such, a reasonable and prudent person in claimant's circumstances, suffering from claimant's conditions, and requiring continued medical care, would have concluded that any additional attempts to seek accommodation from the employer would have been futile. Thus, attempting to address the matter with HR to apply for leave or other accommodation, was not a reasonable alternative to quitting. Claimant therefore voluntarily 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 unemployment insurance benefits based on the work separation.

DECISION: Order No. 25-UI-293984 is set aside, as outlined above.

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

DATE of Service: July 31, 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.

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.

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.

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