

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0514

Modified
Late Request for Hearing Allowed
No Disqualification

PROCEDURAL HISTORY: On June 10, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause and was disqualified from receiving benefits from April 20, 2025 to April 18, 2026 (decision # L0011094933). On June 30, 2025, decision # L0011094933 became final without claimant having filed a request for hearing. On July 7, 2025, claimant filed a late request for hearing. ALJ Kangas considered claimant's request, and on July 10, 2025, issued Order No. 25-UI-297248, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by July 24, 2025.

On July 14, 2025, claimant filed a timely response to the appellant questionnaire. On July 23, 2025, the Office of Administrative Hearings (OAH) mailed a letter stating that Order No. 25-UI-297248 was vacated and that a hearing would be scheduled to determine whether to allow claimant's late request for hearing and, if so, the merits of decision # L0011094933. On July 30 and August 14, 2025, ALJ Goodrich conducted a hearing, and on August 22, 2025 issued Order No. 25-UI-301319, allowing claimant's late request for hearing and modifying decision # L0011094933 by concluding that claimant quit work without good cause and was disqualified from receiving benefits effective April 13, 2025. On August 25, 2025, claimant filed an application for review of Order No. 25-UI-301319 with the Employment Appeals Board (EAB).

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

PARTIAL ADOPTION: EAB considered the entire hearing record, including witness testimony and any exhibits admitted as evidence. EAB agrees with the part of Order No. 25-UI-301319 allowing claimant's late request for hearing. That part of Order No. 25-UI-301319 is **adopted**. See ORS 657.275(2).

FINDINGS OF FACT: (1) Edwards Center, Inc. employed claimant, most recently as a direct support person (DSP), from July 2019 to April 16, 2025.

(2) Prior to and during her employment, claimant suffered from mental health conditions, including major depressive disorder. Claimant received ongoing treatment for these conditions through the duration of her employment.

(3) When claimant first started working for the employer, she began as a job coach at Freeman House, one of the employer's facilities. In October 2019, claimant sustained an injury to her neck and right shoulder at work. In February 2020, claimant sustained another shoulder injury at work. At least in part due to this injury, claimant was no longer able to work as a job coach. Claimant therefore transitioned to working as a DSP at Freeman House. Between 2020 and 2023, claimant sustained several more injuries at work, mostly while working with clients, to various parts of her body. Some of these, such as bilateral nerve damage in her upper extremities, persisted through 2025. *See Exhibit 2 at 22.*

(4) In August 2024, claimant moved from Freeman House to Lynn House, another of the employer's facilities, because she believed that the work there would be "easier on [her] body" based on the profiles of the clients who resided there. August 14, 2025 Transcript at 7. Claimant continued to work as a DSP when she moved to Lynn House.

(5) In October 2024, claimant injured her knee while assisting a client at Lynn House, leaving her "unable to walk properly or perform physical duties." Exhibit 5 at 37. Claimant filed a workers' compensation claim for the injury. Claimant was taken off of work for several months, as she was not capable of performing the work that the employer had available to her, and the employer did not have any modified-duty work available that aligned with claimant's medical restrictions.

(6) In or around mid-March 2025, claimant's workers' compensation doctor updated claimant's work restrictions, based on her progress in recovering from her injury. In late March 2025, based on these updated work restrictions, the employer placed claimant in a role at the Aloha Community Center ("Aloha"), another of their facilities. Claimant was satisfied with this placement, as she believed it would allow her to avoid further injuring herself on the job due to lessened physical requirements. The employer did not intend the placement to be permanent, as they did not have a permanent position to offer her at that facility. However, the employer did not tell claimant this at the time they placed her at Aloha, and claimant therefore was not aware that the placement was temporary.

(7) On April 11, 2025, claimant met with her workers' compensation doctor, who deemed her capable of returning to work at regular capacity. Shortly thereafter, the employer learned of this development, and determined that claimant would have to return to working at Lynn House.

(8) On April 15, 2025, claimant worked her final shift for the employer.

(9) On April 16, 2025, claimant called out sick from work because of pain resulting from a dental condition. On the same day, the employer's human resources (HR) generalist called claimant and told her that the position at Aloha had been temporary, that due to the doctor having lifted claimant's physical restrictions, claimant would have to return to Lynn House in her previous role, and that claimant could work the remaining two days in the week (April 17 and 18, 2025) to teach a class at

Aloha that she had been preparing. Claimant told the HR generalist that she was not willing to return to Lynn House because she was concerned about being reinjured, and that she would “have to quit” if that was her only option. August 14, 2025 Transcript at 13. Shortly thereafter, claimant hung up the phone. Before claimant hung up, the HR generalist did not give claimant any options other than returning to work at Lynn House.

(10) On April 16, 2025, after speaking with the HR generalist, claimant sent her supervisor a text message which stated, in relevant part, “I was told my position was temporary and I would have to go back to the house I got hurt at... So I said I quit.” Exhibit 4 at 6. Claimant did not work for the employer thereafter. Claimant did not work through the rest of the week ending April 18, 2025 because she remained out due to dental pain.

(11) If claimant had asked the HR generalist about talking to her doctor regarding the duties required of her at Lynn House, before returning to that facility, the employer would have permitted her to do so. Additionally, claimant could have spoken to the employer’s executive leader about her concerns, as the executive leader had an “open door policy” that allowed any employee to speak to him about any concerns. August 14, 2025 Transcript at 55.

CONCLUSIONS AND REASONS: Claimant quit work with good cause.

Nature of the Work Separation. A work separation occurs when a claimant or employer ends the employer-employee relationship.

If claimant could have continued to work for the employer for an additional period of time, the work separation is a voluntary leaving. OAR 471-030-0038(2)(a) (September 22, 2020). If claimant was willing to continue working for the employer for an additional period of time, but the employer did not allow claimant to do so, the separation is a discharge. OAR 471-030-0038(2)(b).

The parties disputed the nature of the work separation. At hearing, the employer asserted that claimant quit. August 14, 2025 Transcript at 44. By contrast, claimant testified that she did not “feel like [she] quit... willingly,” and asserted that the work separation should be considered an “involuntary separation for medical reasons.” August 14, 2025 Transcript at 9, 65. Nevertheless, the record shows that claimant quit work.

During her phone call with the HR generalist on April 16, 2025, the HR generalist told claimant that she would be returning to work at Lynn House as of the following week. The HR generalist also testified at hearing that continuing work was available for claimant. August 14, 2025 Transcript at 56. By contrast, the record shows that claimant told the HR generalist that she would “have to quit” if returning to Lynn House was her only option, and likewise told her supervisor via a text message that she had quit. In addition to having explicitly stated she was quitting, these interactions also show that claimant was unwilling to continue working for the employer based on the terms that the employer had set for her. As such, because claimant could have continued to work for the employer for an additional period of time, but chose not to do so, the work separation was a voluntary leaving which occurred on April 16, 2025.

Claimant’s assertion to the contrary appears to be based on her frustration with the circumstances that led her to quit. However, even if the choice to remain employed included a requirement that claimant

would not accept, it was nevertheless claimant's choice to leave work. Whether that choice constituted good cause for quitting is a separate analysis, as discussed below.

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). Claimant had major depressive disorder and bilateral nerve damage in the upper extremities, 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 an impairment would have continued to work for their employer for an additional period of time.

Claimant voluntarily quit work because, after her workers' compensation doctor returned her to full duty, the employer informed claimant that she would no longer be allowed to continue working at Aloha, but would instead have to return to Lynn House, and claimant was concerned about being reinjured if she returned to that role. The order under review concluded that while this constituted a grave situation, claimant failed to pursue the reasonable alternatives of speaking further with the HR generalist about other options potentially available to her, such as speaking to her physician before returning to Lynn House; or speaking to the employer's executive leader about her concerns. Order No. 25-UI-301319 at 5. The record does not support the conclusion that claimant had any reasonable alternatives to quitting.

First, as the order under review acknowledged, claimant's circumstances were grave. In addition to the October 2024 injury which kept claimant off of work for several months, claimant had suffered a number of other work-related injuries since she began working for the employer. The record shows that at least one of these injuries, the bilateral nerve damage to her upper extremities, persisted for some two years following the date of the injury. Given the scope of the various injuries that claimant had suffered over the course of her employment, and the length of time she was off of work due to the latest one, claimant's concern about the possibility of reinjury at Lynn House was reasonable. No reasonable and prudent person, particularly one suffering from the lasting effects of some of their prior work-related injuries, would continue working for the employer if doing so required them to return to the role where they were last injured.

Claimant had no reasonable alternative but to quit. The record shows that claimant's placement at Aloha was temporary, and that the employer could not offer her a permanent position there. While the employer suggested at hearing that they would have heard claimant out if she had requested to speak with the executive leader, or further discussed the matter with the HR generalist, the employer did not assert that any other positions suitable to claimant's physical condition and reinjury concerns were actually available at that time.¹ Likewise, given that it apparently took several months from the date of

¹ See *Fisher v. Employment Department*, 911 P2d 975, 139 Or App 320 (Or. App. 1996) (for a course of action to be considered a reasonable alternative to quitting, the record must show that such course of action was actually available to the individual).

injury before the employer could even place claimant in a modified duty role, it is reasonable to conclude that, more likely than not, no such roles existed into which claimant could transfer at the time that she quit.

Furthermore, even if the employer *did* have any suitable positions available for claimant at the time that she quit, claimant had no reason to believe that such was the case. The record shows that claimant hung up on the HR generalist shortly after the latter told her that she would have to return to Lynn House. At hearing, the HR generalist testified that if claimant had expressed concern about the possibility of reinjury at Lynn House, she would have “taken that right straight to [her] supervisor and let them know that’s what [claimant] wanted.” August 14, 2025 Transcript at 54.

However, this testimony is contradicted by the same witness’s memorandum of the phone conversation itself, drafted shortly after that conversation concluded.² The memorandum stated, in relevant part, “[Claimant] stated that she was not interested in going back to residential [at Lynn House] as she doesn’t want to get injured again.” Exhibit 4 at 7. The record does not show that the HR generalist attempted to contact her supervisor about this concern. Neither does it show that she presented claimant with any other alternatives to returning to Lynn House after claimant expressed this concern. Instead, the HR generalist only told claimant that she would be allowed to finish out the week at Aloha before being required to return to Lynn House.

Thus, the record suggests that the HR generalist had an opportunity to speak to claimant about her concerns, and offer alternatives to returning to Lynn House, before claimant hung up the phone. The fact that she did not do so would have led a reasonable and prudent person in claimant’s circumstances to conclude that no such alternatives existed, and that requesting further discussion on the matter would be futile. Thus, attempting to discuss the matter further with the employer would not have been a reasonable alternative to quitting. Likewise, because claimant had no reason to believe that speaking to her doctor about returning to Lynn House would have resulted in a placement elsewhere, this would not have been a reasonable alternative to quitting.

For the above reasons, claimant quit work for a reason of such gravity that she had no reasonable alternative but to quit. Claimant therefore quit work with good cause and is not disqualified from receiving benefits based on the work separation.

DECISION: Order No. 25-UI-301319 is modified, as outlined above.

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

DATE of Service: October 1, 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.

² See August 14, 2025 Transcript at 45.

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.

Employment Appeals Board - 875 Union Street NE | Salem, OR 97311

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