

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0536

Affirmed
Disqualification

PROCEDURAL HISTORY: On April 24, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit work without good cause and was therefore disqualified from receiving unemployment insurance benefits effective June 23, 2024 (decision # L0010401277).¹ Claimant filed a timely request for hearing. On August 20, 2025, ALJ Griffith conducted a hearing, and on August 26, 2025, issued Order No. 25-UI-301563, modifying decision # L0010401277 by concluding that claimant quit work without good cause and was disqualified from receiving benefits effective June 30, 2024.² On September 12, 2025, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Smiley Electric, Inc. employed claimant as an electrician from April 18, 2022 until July 1, 2024.

(2) On April 13, 2024, claimant gave written notice of his resignation which stated it would become effective on April 29, 2024. The notice cited claimant's desire "to pursue other career opportunities that align more closely with my long-term goals and aspirations." Transcript at 32. When submitting the notice, claimant told the employer's owner he was quitting to start a DJ business. Claimant worked a full-time schedule from the start of his employment through the end of April 2024.

(3) After receiving the notice of claimant's intent to resign, the owner asked claimant to extend the notice period until he hired a replacement, and claimant agreed. Although the employer continued to offer claimant 40 hours of work per week, claimant generally restricted his availability to an average of

¹ Decision # L0010401277 stated that claimant was denied benefits from June 23, 2024 to July 12, 2025. However, decision # L0010401277 should have stated that claimant was disqualified from receiving benefits beginning Sunday, June 23, 2024, and until he earned four times his weekly benefit amount. See ORS 657.176.

² Although Order No. 25-UI-301563 stated it affirmed decision # L0010401277, it modified that decision by changing the beginning date of the disqualification from June 23, 2024 to June 30, 2024 (although the order states the date as June 30, 2025, the incorrect year appears to be a scrivener's error). Order No. 25-UI-301563 at 3.

two days per week during May and June 2024 to provide childcare or to spend time seeking work with other employers. The employer allowed claimant to work part-time during those months in accordance with his stated availability.

(4) By July 1, 2024, the employer had hired a replacement for claimant and therefore stopped offering him work after that date. Claimant did not work for the employer after July 1, 2024, and had never requested to rescind his resignation.

CONCLUSIONS AND REASONS: Claimant voluntarily quit work without 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).

Claimant moved to sever the employment relationship on April 13, 2024, by giving written notice to the employer of his intent to resign effective “two weeks from April 15, 2024.” Transcript at 31. Upon receiving the notice, the employer asked claimant to continue to work beyond April 29, 2024, until a replacement was hired, and claimant agreed. The employer did not offer claimant any work after July 1, 2024, because staffing levels at that time were such that claimant’s services were no longer needed.

When an employee gives notice of their intent to resign, but delegates to the employer the decision of when their resignation becomes effective, such as by agreeing to stay until a replacement is hired, the separation remains a voluntary leaving rather than a discharge. *Westrope v. Employment Dept.*, 144 Or App 163, 925 P2d 587 (1996) (when claimant offered to remain at work as long as the employer needed or until the employer found a replacement, and the employer refused the offer and effectuated the separation immediately, the separation remained a voluntary leaving because through his offer, claimant delegated to the employer the right to choose the separation date). Therefore, even though claimant may have been willing to continue to work for the employer after July 1, 2024, he delegated to the employer the right to deem his resignation effective on that date. Accordingly, the work separation was a voluntary leaving that occurred on July 1, 2024.

Voluntary Leaving. 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 Dept.*, 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 Dept.*, 348 Or 605, 612, 236 P3d 722 (2010).

Per OAR 471-030-0038(5)(b), leaving work without good cause includes:

* * *

(A) Leaving suitable work to seek other work;

* * *

(G) Leaving work for self employment.

* * *

A claimant who leaves work due to a reduction in hours “has left work without good cause unless continuing to work substantially interferes with return to full time work or unless the cost of working exceeds the amount of remuneration received.” OAR 471-030-0038(5)(e).

Claimant gave notice of his resignation on April 13, 2024 because he intended to start a DJ business. Claimant wrote in his resignation letter that he was submitting it because of his desire to “pursue other career opportunities,” and at hearing, he did not rebut the owner’s testimony that he told the owner when submitting the letter that his reason for resigning was to start a DJ business, and affirmed, “There was a plan to do that.” Transcript at 9-10, 31. Claimant was asked at hearing if he actually “attempt[ed] to start a DJ business,” and claimant responded, “[I]t’s something that I always spoke to [the owner] about me wanting to do. [But], unfortunately, that did not exactly pan out. . . at all. And that’s when I started seeking more employment because. . . I was not able to. . . make a full 40 hours a week paycheck.” Transcript at 15. Claimant also testified, “I put in my two weeks’ notice there at the end of April. And during that period after I put in my two weeks’ notice was when I was job hunting. And I was also taking interviews with other companies. And as we. . . were crossing over from May into June was when my wife started to take on full-time work,” which resulted in a need for claimant to provide childcare. Transcript at 36.

The record shows that claimant’s reasons for submitting his resignation were to pursue self-employment in a DJ business, or in the alternative, to seek work from other employers. Pursuant to OAR 471-030-0038(5)(b)(A) and (G), these reasons are not considered good cause for leaving suitable work. Although claimant also raised the issues of reduction in hours and the need to provide childcare as factors in his decision to quit work, claimant did not show by a preponderance of the evidence that these issues were occurring on or before April 13, 2024 when he chose to resign.

The owner testified that he consistently offered claimant 40 hours of work per week through the July 1, 2024 work separation, and that claimant’s hours were reduced after April 2024 only because claimant restricted his availability for work to certain days. Transcript at 20-21. The owner read into the record several text exchanges with claimant from mid-May through late June 2024 in which claimant stated he was unavailable to work during certain days of each week. *See* Transcript at 33-34. Claimant testified that he did not dispute the accuracy of the owner’s testimony regarding the text messages, and when asked to “square” what he wrote in the text messages with his earlier testimony that he had been available to work full-time each week through July 1, 2024, claimant cited his wife’s return to full-time work in late May to early June as creating a need “to be home to watch the kids as I was looking for. . . another job. And that’s why then, right after, my schedule started to become. . . a bit more less available was because she picked up a job [a]nd I was taking interviews with other companies.” Transcript at 35-36.

In weighing this evidence, it is more likely than not that claimant never experienced an *involuntary* reduction in work hours, and that any need for claimant to provide childcare arose well after he submitted his resignation. Therefore, claimant has not shown that his work was unsuitable at the time he resigned, or that he resigned for reasons other than to pursue self-employment or seek other work. Accordingly, under the rule, claimant's reasons for resigning of pursuing self-employment or seeking other work did not constitute good cause to quit.

For these reasons, claimant voluntarily quit work without good cause and is disqualified from receiving unemployment insurance benefits effective June 30, 2024.

DECISION: Order No. 25-UI-301563 is affirmed.

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

DATE of Service: October 14, 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 دستورالعمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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