

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0567

Affirmed
Disqualification

PROCEDURAL HISTORY: On August 19, 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 22, 2025 (decision # L0012504484).¹ Claimant filed a timely request for hearing. On September 15, 2025, ALJ Blam conducted a hearing, and on September 23, 2025, issued Order No. 25-UI-304670, affirming decision # L0012504484. On September 25, 2025, claimant filed an application for review with the Employment Appeals Board (EAB).

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

FINDINGS OF FACT: (1) Jeff Hunter employed claimant as a construction laborer from October 2024 through June 26, 2025.

(2) The employer was concerned by claimant's attendance and punctuality, particularly from June 20 through 24, 2025. On June 25, 2025, the employer warned claimant about the need to be on time for work, and stated that if he was late for work again he would "be done." Transcript at 9. The employer did not intend to convey to claimant that he would necessarily be discharged if he were late for work again, but made the statement to motivate him to be on time. The employer was otherwise satisfied with claimant's work.

(3) On June 26, 2025, claimant was scheduled to begin work at 8:00 a.m. Claimant overslept and realized when he awoke that he could not arrive at work until at least 8:30 a.m. Based on the previous day's warning, claimant assumed that the employer had discharged him when he failed to report for work at 8:00 a.m. Claimant therefore did not drive to the worksite or attempt to contact the employer.

¹ Decision # L0012504484 stated that claimant was denied benefits from June 22, 2025 to July 4, 2026. However, decision # L0012504484 should have stated that claimant was disqualified from receiving benefits beginning Sunday, June 22, 2025, and until he earned four times his weekly benefit amount. See ORS 657.176.

(4) When claimant failed to report for work or contact the employer by the end of the workday, the employer considered claimant to have quit work. At 4:29 p.m., the employer texted claimant, “You should take pictures of your time cards and send them. I’m doing payroll stuff Saturday and need that information. Checks should be ready Tuesday[,] did you want me to mail it to you or pick it up at the site[?]” to which claimant replied, “Mail is fine.” Exhibit 1 at 5. The parties did not attempt to discuss claimant’s employment status, and he did not work for the employer thereafter.

(5) The employer would have allowed claimant to continue working despite his unexplained absence had he expressed an interest in doing so, or had he reported for work the following day. Claimant would have continued working for the employer on and after June 26, 2025 had he not mistakenly believed that he had been discharged.

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).

The employment relationship ended on June 26, 2025, when claimant failed to report for work and decided not to notify the employer that he would be late or absent. Claimant testified that he decided not to go to work or contact the employer after waking up late because, based on the prior day’s conversation, he “figured [he] was going to be late so [he] was going to be done.” Transcript at 17. Both parties agreed that the employer never told claimant that he was discharged after he failed to come to work on June 26, 2025, and that their first communication of the day was the employer’s text about claimant’s timecard and final paycheck at 4:29 p.m. The employer testified that he would have allowed claimant to continue working on and after June 26, 2025, despite his unexplained absence, had he expressed a willingness to do so or reported for work the next day. Transcript at 11.

The record shows that both parties wanted to continue the employment relationship on and after June 26, 2025. Nonetheless, the relationship ended that day because claimant did not report for work or contact the employer to explain his absence, which the employer reasonably interpreted as conveying claimant’s unwillingness to continue working due to unhappiness about the warning he had received the day before. Although claimant desired to continue working for the employer, his actions demonstrated to the employer that he was no longer willing to do so. In contrast, the employer’s actions after claimant failed to report for work did not demonstrate that claimant would not be allowed to continue working, even if claimant mistakenly assumed the employer would feel otherwise based on their previous conversation. Neither party attempted to preserve or clarify the status of the employment relationship in the final text exchange regarding claimant’s paycheck. However, as only claimant’s actions had demonstrated an unwillingness to continue the employment relationship up to that point, it was incumbent on claimant, rather than the employer, to make known his willingness to continue the relationship. Therefore, more likely than not, the employer was willing to allow claimant to continue working for an additional period

of time, and did not prevent claimant from doing so. Accordingly, the work separation was a voluntary leaving.

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).

Claimant quit by deciding to not go to work or contact the employer after waking up late on June 26, 2025. Claimant made this decision because he mistakenly assumed that the employer had discharged him after he failed to report for work at 8:00 a.m. The employer had told claimant the day before that his lack of punctuality could not continue and that if he continued to be late, he would “be done.” Transcript at 9. Claimant reasonably interpreted the statement as a threat of possible discharge if he was late for work again, but made no effort after discovering he would be late on June 26, 2025 to see if the employer would actually follow through with discharging him. Claimant testified that he did not report to the worksite to see whether the employer would allow him to work because he felt it would be a wasted commute and he would be humiliated to have his coworkers see him being discharged. Transcript at 22. However, claimant did not explain why he failed to contact the employer by telephone, text, or email to discuss his tardiness and the potential consequences for it, which would have avoided these potential results.

Under these circumstances, a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would offer their excuse to the employer for being late and learn what discipline the employer intended to impose, if any, before taking action that would appear to the employer as severing the employment relationship. Moreover, in the absence of any direct statement from the employer that they had been discharged, a reasonable and prudent person would not assume that they had been discharged without further discussion with the employer and would attempt to maintain the employment relationship, which claimant did not pursue. Therefore, claimant has not shown that he faced a grave situation based on his mistaken assumption that the employer had discharged him for being late. Additionally, even if claimant had faced a grave situation based on this mistaken assumption, he had the reasonable alternative to quitting work of telling the employer that he wished to remain employed and would make further efforts to address concerns about his attendance and punctuality. Accordingly, claimant quit work without good cause.

For these reasons, claimant voluntarily quit work without good cause and is therefore disqualified from receiving unemployment insurance benefits effective June 22, 2025.

DECISION: Order No. 25-UI-304670 is affirmed.

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

DATE of Service: October 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.

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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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