EO: Intrastate
BYE: 10-Jan-2026

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

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VQ 005.00
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EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0594

Late Application for Review Allowed
Modified
Eligible through January 4, 2025
Disqualification Effective January 5, 2025

PROCEDURAL HISTORY: On February 4, 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 effective January 12, 2025 through January 10, 2026 (decision # L0009152202). Claimant filed a timely request for hearing. On May 9, 2025, ALJ Parnell conducted a hearing, and on May 13, 2025 issued Order No. 25-UI-292112, modifying decision # L0009152202 by concluding that claimant quit work without good cause and was disqualified from benefits effective January 5, 2025, until requalified under Department law.[1] On June 2, 2025, Order No. 25-UI-292112 became final without claimant having filed an application for review with the Employment Appeals Board (EAB). On October 6, 2025, claimant filed a late application for review with EAB.

EVIDENTIARY MATTER: EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence is the written statement claimant included with her late application for review, has been marked as EAB Exhibit 1, and provided to the parties with this decision. Any party that objects to EAB taking notice of this information must send their objection to EAB in writing, stating why they object, within ten days of EAB mailing this decision. OAR 471-041-0090(2). Unless EAB receives and agrees with the objection, the exhibit will remain in the record.

Although claimant's statement with her application for review primarily addresses why she filed it late, she also indicated that she was "requesting a final hearing so that [her] documentation can be considered/reviewed." EAB Exhibit 1 at 1. Claimant appears to be referring to documents that she submitted prior to the hearing, but which were not admitted as exhibits because claimant did not serve

[1] Although Order No. 25-UI-292112 stated it affirmed decision # L0009152202, it modified that decision by changing the effective date and duration of the disqualification. Order No. 25-UI-292112 at 3.

the documents on the employer. Audio Record at 4:10. The ALJ's exclusion of these documents was proper, as OAR 471-040-0023(4) (August 4, 2004) requires documents offered into the record as evidence to be served on the other party or parties.

To the extent that claimant is requesting that EAB consider those documents in reaching this decision, claimant's request is denied. For EAB to consider this evidence, claimant must have shown that she was prevented from offering it into the record during the hearing due to factors or circumstances beyond her reasonable control. Given that claimant *did* offer the evidence into the record, but simply failed to serve it on the other party, claimant has not so shown. *See* OAR 471-041-0090(1)(b)(B). As such, claimant's request is denied. EAB considered only the information received into evidence at the hearing. See ORS 657.275(2).

FINDINGS OF FACT: (1) Thrive Communities Management, LLC employed claimant as a community manager from October 5, 2021 through December 30, 2024. As a community manager, claimant reported to the employer's regional manager.

(2) During claimant's tenure with the employer, she worked under several different regional managers. Claimant generally got along well with her managers except her last one, who started in or around mid-2024. After starting to work with the new manager, claimant felt that she did not get along well with her, and had concerns about several of her managerial decisions. These concerns included the partial denial of claimant's vacation request around the July 4th weekend, the denial of mileage reimbursements that claimant had submitted, and what claimant felt was generally difficult communication with the manager.

(3) In October 2024, claimant's manager issued her a written warning relating to claimant's handling of a conflict with one of the maintenance workers she supervised. Claimant felt that the warning was unwarranted.

(4) Claimant spoke to the employer's human resources (HR) department on multiple occasions regarding her concerns about her manager, starting in July 2024. Although HR helped to coordinate "mediation" sessions between claimant and her manager, the conflict between the two continued. Transcript at 6. In or around November 2024, claimant requested a transfer to work under a different regional manager. However, claimant was not eligible for a transfer because of the written warning on her record.

(5) On December 30, 2024, the employer issued claimant a final written warning, based on multiple concerns about her work performance. Claimant felt that the concerns for which the warning were issued were unfounded, and believed that her manager had been looking for a reason to discharge her, although the employer did not intend to discharge claimant during that meeting. Based on her belief that she would likely be discharged if she continued working for the employer, her understanding that she would not be eligible for rehire if she was discharged, and the difficult working relationship she had with her manager, claimant gave "two weeks" notice that she intended to quit. Transcript at 6. However, the employer told claimant that she would not be required to work through her notice period, that December 30, 2024 would be her last day of work, and that she would be paid through January 10, 2025. Claimant left and did not work for the employer again.

(6) Order No. 25-UI-292112, mailed to claimant on May 13, 2025, stated, "You may appeal this decision by filing the attached form Application for Review with the Employment Appeals Board within 20 days of the date that this decision is mailed." Order No. 25-UI-292112 at 3. Order No. 25-UI-292112 also stated on its Certificate of Mailing, "Any appeal from this Order must be filed on or before June 2, 2025 to be timely."

(7) On May 27, 2025, claimant "emailed a request for a final hearing[.]" EAB Exhibit 1 at 1. On August 26, 2025, after not receiving a response to her email, claimant sent an email to EAB. EAB did not receive an email from claimant in either May or August 2025.[2] On October 6, 2025, after not having received a response to either email, claimant mailed a paper Application for Review form to EAB.

CONCLUSIONS AND REASONS: Claimant's late application for review is allowed. Claimant was discharged, but not for misconduct, within 15 days of a planned voluntary quit that would not have been for good cause.

Late Application for Review. An application for review is timely if it is filed within 20 days of the date that the Office of Administrative Hearings (OAH) mailed the order for which review is sought. ORS 657.270(6); OAR 471-041-0070(1) (May 13, 2019). The 20-day filing period may be extended a "reasonable time" upon a showing of "good cause." ORS 657.875; OAR 471-041-0070(2). "Good cause" means that factors or circumstances beyond the applicant's reasonable control prevented timely filing. OAR 471-041-0070(2)(a). A "reasonable time" is seven days after the circumstances that prevented the timely filing ended. OAR 471-041-0070(2)(b). A late application for review will be dismissed unless it includes a written statement describing the circumstances that prevented a timely filing. OAR 471-041-0070(3).

The application for review of Order No. 25-UI-292112 was due by June 2, 2025. Because claimant did not file her application for review until October 6, 2025, the application for review was late. However, the record shows that claimant had good cause for filing the late application for review. Claimant initially attempted to file her application for review via email on May 27, 2025, which was prior to the timely filing deadline. Had that email been received, it most likely would have been construed as a timely application for review.[3] For unknown reasons, however, that email was not received. As such, claimant's failure to file a timely application for review was due to factors or circumstances beyond her reasonable control. Because claimant never received a response to that email, or the August 2025 email to EAB, which EAB did not receive, those factors or circumstances continued until she filed the paper Application for Review form on October 6, 2025. Thus, claimant had good cause for filing the late application for review, and filed it within a reasonable time. Claimant's late application for review therefore is allowed.

Discharge. If a claimant notified their employer they would quit work on a specific date, and the quit would have been without good cause, but the employer discharged the claimant, not for misconduct, no

[2] EAB has taken notice of these facts, which are within EAB's specialized knowledge. OAR 471-041-0090(1). Any party that objects to EAB taking notice of this information must send their objection to EAB in writing, stating why they object, within ten days of EAB mailing this decision. OAR 471-041-0090(2). Unless EAB receives and agrees with the objection, the noticed facts will remain in the record.

[3] *See* OAR 471-041-0060 (May 13, 2019).

more than 15 days before the date of the planned quit, then the separation from work is adjudicated as if the discharge had not occurred and the planned quit had occurred. ORS 657.176(8). However, the claimant is eligible for benefits for the week in which the actual discharge occurred through the week before the week of the planned quit. ORS 657.176(8).

ORS 657.176(2)(a) requires a disqualification from unemployment insurance benefits if the employer discharged claimant for misconduct connected with work. "As used in ORS 657.176(2)(a) . . . a willful or wantonly negligent violation of the standards of behavior which an employer has the right to expect of an employee is misconduct. An act or series of actions that amount to a willful or wantonly negligent disregard of an employer's interest is misconduct." OAR 471-030-0038(3)(a) (September 22, 2020). "'[W]antonly negligent' means indifference to the consequences of an act or series of actions, or a failure to act or a series of failures to act, where the individual acting or failing to act is conscious of his or her conduct and knew or should have known that his or her conduct would probably result in a violation of the standards of behavior which an employer has the right to expect of an employee." OAR 471-030-0038(1)(c). In a discharge case, the employer has the burden to establish misconduct by a preponderance of evidence. *Babcock v. Employment Division*, 25 Or App 661, 550 P2d 1233 (1976).

On December 30, 2024, claimant gave the employer "two weeks" notice of her intent to resign. The employer responded by telling her that she would not be required to work through her notice period, that December 30, 2024 would be her last day of work, and that she would be paid through January 10, 2025. The record does not show that the employer would have permitted claimant to continue working after December 30, 2024. As such, although claimant gave notice of her resignation, the employer severed the employment relationship that day, and the separation was a discharge.[4]

The record does not show why the employer decided to discharge claimant on December 30, 2024. It does not show that they made this decision in response to anything other than claimant's notice of resignation (such as any other conduct occurring on that day that might have violated their policies or expectations). It therefore can be inferred that, upon receiving claimant's resignation, the employer simply decided that they did not require claimant's services for the remainder of her notice period. Because the employer has not met their burden of proof to show that they discharged claimant for a willful or wantonly negligent violation of their standards of behavior, they have not shown that they discharged her for misconduct.

However, because the discharge occurred within 15 days of the date on which claimant intended to resign,[5] it is necessary, under ORS 657.176(8), to determine whether claimant's planned quit would have been for good cause.

Planned 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

[4] The date a claimant is separated from work is the date the employer or claimant ends the employer-employee relationship. OAR 471-030-0038(1)(a) (September 22, 2020).

[5] The record does not show whether claimant gave a specific end for her employment when she resigned—only that she gave "two weeks" notice. However, given that December 30, 2024 was a Monday, and January 10, 2025 was a Friday, it is likely that claimant meant that she had given notice that she would quit at the end of two *work* weeks. Therefore, it is presumed that claimant intended to quit on January 10, 2025.

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

Claimant intended to quit because of her belief that she would likely be discharged if she continued working for the employer, her understanding that she would not be eligible for rehire if she was discharged, and the difficult working relationship she had with her manager. Claimant has not met her burden to show that these constituted reasons of such gravity that she had no reasonable alternative but to quit.

As to her concerns about being discharged and thus being ineligible for rehire, this did not constitute a grave reason for quitting. Under some circumstances, facing a likely discharge, not for misconduct, can be considered good cause. *See McDowell v. Employment Dep't.*, 348 Or 605, 236 P3d 722 (2010) (claimant had good cause to quit work to avoid being discharged, not for misconduct, when the discharge was imminent, inevitable, and would be the "kiss of death" to claimant's future job prospects); *Dubrow v. Employment Dep't.*, 242 Or App 1, 252 P3d 857 (2011) (a future discharge does not need to be certain for a quit to avoid it to qualify as good cause; likelihood is not dispositive of the issue but it does bear on the gravity of the situation). Unlike in *McDowell*, for instance, however, while claimant's discharge may have been likely, the record does not show that it was likely imminent. Moreover, even assuming that claimant was correct in her assertion that being discharged would have rendered her ineligible for rehire with the employer, the record does not show that it would have significantly limited her ability to find similar work with another employer, such that a discharge would be considered a "kiss of death" for claimant's overall prospects of re-employment. Therefore, to the extent that claimant intended to quit because of her concerns about being discharged, this was not a grave situation.

To the extent that claimant planned to quit due to her difficult working relationship with her manager, this also did not constitute a grave reason for quitting. While claimant's concerns about these issues were understandable, claimant did not show that they constituted a situation of such gravity that she had no reasonable alternative but to quit. The employer rebutted some of claimant's assertions, testifying, for instance, that claimant's partially-denied vacation request was "excessive" because the employer "didn't have coverage available" for all of the requested off time. Transcript at 18. Regardless of the merit of claimant's assertions about her manager, however, the concerns she raised largely amounted to civil disagreements about working conditions and workplace policies. Claimant did not offer evidence to show that these issues rose above the level of frustration or inconvenience. Claimant did not allege, for instance, that she faced any safety issues at work as a result of her working relationship with her manager, or that the manager acted in an abusive or unlawful fashion. Neither did claimant show that she suffered any particularly negative effects from these disagreements. As such, claimant did not show that a reasonable and prudent person would have concluded that they had no reasonable alternative but to leave work due to these issues.

For the above reasons, claimant was discharged, not for misconduct, within 15 days of a planned quit without good cause. Claimant therefore is eligible for benefits through January 4, 2025, the week in

which she was actually discharged; and is disqualified from receiving benefits effective January 5, 2025, the week she intended to quit.

DECISION: Claimant's late application for review is allowed. Order No. 25-UI-292112 is modified, as outlined above.

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

DATE of Service: November 4, 2025

NOTE: This decision modifies the ALJ's order denying claimant benefits. Please note that in most cases, payment of benefits owed, if any, will take about a week for the Department to complete.

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.

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.

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