

**EMPLOYMENT APPEALS BOARD DECISION**  
**2025-EAB-0599**

*Affirmed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On August 4, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged by the employer for misconduct and disqualified from receiving benefits effective June 1, 2025 (decision # L0012169917).<sup>1</sup> Claimant filed a timely request for hearing. On October 3, 2025, ALJ Nyberg conducted a hearing, and on October 6, 2025 issued Order No. 25-UI-305879, reversing decision # L0012169917 by concluding that claimant was discharged, but not for misconduct, and was not disqualified from receiving benefits based on the discharge. On October 8, 2025, the employer filed an application for review with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** The employer's argument contained information that was not part of the hearing record and did not show that factors or circumstances beyond the employer's 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 the employer's argument that were based on the hearing record.

**FINDINGS OF FACT:** (1) Sistech Manufacturing, Inc. employed claimant as their controller from approximately June 2024 through June 6, 2025. As controller, claimant's duties included management of the employer's payroll systems and processes.

(2) The employer expected employees to use paid time off (PTO) "for any reason and justification to be out of the office." Transcript at 6.

(3) By practice, claimant maintained a detailed spreadsheet containing the balances and accrual rates of paid time off (PTO) for all of the company's employees. Claimant updated this spreadsheet at least once

<sup>1</sup> Decision # L0012169917 stated that claimant was denied benefits from June 8, 2025 to June 6, 2026. However, because decision # L0012169917 found that claimant was discharged on June 6, 2025, it should have stated that claimant was disqualified from receiving benefits beginning Sunday, June 1, 2025 and until she earned four times her weekly benefit amount. *See* ORS 657.176.

per pay period, checked it against the accrued balances for each employee, and made manual adjustments to employees' PTO balances if they were incorrectly calculated in the system. Claimant also tracked any such adjustments she made in the spreadsheet itself.

(4) On January 1, 2025, the employer transitioned to a new payroll system. Once the transition was complete, several employees reported to claimant that their PTO balances appeared to be incorrect. After investigating and checking the balances in the new system against her spreadsheet, claimant manually adjusted the PTO balances of several employees, including her own, that had been transferred incorrectly from the old payroll system to the new one. Claimant sent a copy of the spreadsheet to the employer's CEO. Additionally, claimant was aware that both the new and the former payroll systems had audit trails that tracked any actions taken in the systems.

(5) At some point during her tenure with the employer, claimant began experiencing health concerns that required medical treatment. She notified the employer that she would be required to attend multiple medical appointments in the proceeding period of time, sometimes once a week or more, and sometimes for a half or whole day. Claimant also spoke to the CEO in person about this, to which he responded, "just keep me posted." Transcript at 15. Claimant typically used her own PTO to cover the longer appointments, such as those lasting half a day or longer. Claimant did not use PTO to cover shorter absences that only lasted an hour or two, as she did not believe she was required to do so.

(6) In May 2025, claimant sent an email to the CEO requesting time off for half of Thursday, May 22, 2025, and all of Friday, May 23, 2025, as claimant planned to have family visiting her for the Memorial Day holiday weekend. Claimant planned to cover these absences with her accrued PTO. The CEO did not respond to claimant's request. On May 22, 2025, claimant spoke to the CEO in person to "tell him... that [her] work was done," and reiterate that she had planned to take PTO for the long weekend "unless [he] need[ed] something else." Transcript at 16–17. The CEO looked at claimant and, without saying anything, shook his head. Claimant eventually learned that the CEO was "really upset" with her for taking time off on May 22 and 23, 2025. Transcript at 17. The CEO stopped speaking to claimant entirely after she took off the time around Memorial Day.

(7) In or around May 2025, the employer came to believe that claimant had been "improper[ly] accounting for her personal time off," and "spending significant time out of the office away from her responsibilities." Transcript at 6. In response, the employer initiated a payroll audit. As a result of this audit, the employer came to believe that claimant had adjusted PTO balances or accrual rates "without any proper... authority or approval," including "for her personal benefit." Transcript at 6.

(8) Based on the results of the audit, the employer's concerns about claimant's use of PTO, and the time she had spent out of the office, the employer decided to discharge claimant. The employer initially offered to allow claimant to resign in lieu of being discharged, but claimant declined the offer. As such, on June 6, 2025, the employer discharged claimant.

**CONCLUSIONS AND REASONS:** Claimant was discharged, but not for misconduct.

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).

The employer discharged claimant due to the results of the audit they conducted in or around May 2025, their concerns about claimant’s use of PTO, and the time she had spent out of the office. The employer has not met their burden to show that any of these reasons constituted misconduct on claimant’s part.

At hearing, the employer’s witness testified that the company’s “policy is that personal time off accounts for any reason and justification to be out of the office.” Transcript at 6. He broadly asserted that claimant was “responsible for controlling and enforcing” the employer’s “rules surrounding paid time off,” and claimant likewise confirmed that she was “familiar with the rules.” Transcript at 9, 18. The record does not contain any further detail regarding the wording of specific rules, policies, or expectations, or how they were communicated to claimant.

The employer also made broad allegations regarding claimant’s conduct that allegedly violated their policies or expectations, but offered little detail as to when the conduct occurred or to what extent. For instance, the employer’s witness testified that claimant “would just inform [the leadership team] or the CEO that she was going to be out... and then report only a fraction of the time that she was away from the office in the system as PTO.” Transcript at 8. He likewise testified that claimant spent “days into weeks of time out of office in excess of what [PTO] was accrued or earned,” and manually manipulated PTO accruals “without any proper... authority or approval... for her personal benefit.” Transcript at 9, 6. The employer’s witness did not testify to the specifics of these allegations, and the employer did not offer any corroborating documentary evidence into the hearing record.<sup>2</sup>

To the extent that the employer discharged claimant due to her manual adjustment of PTO balances or accrual rates, the record does not show by a preponderance of the evidence that claimant violated the employer’s expectations regarding such practices. While it can be reasonably inferred that the employer expected claimant not to make any modifications to PTO balances or accrual rates that were either inaccurate or not in accord with their established policies, they have not shown that the adjustments claimant made after transitioning to the new payroll system actually violated these expectations. In contrast to the employer’s assertions on this point, claimant testified that she did not take time off that “was not reflected in [her] paid time off totals.” Transcript at 14. Thus, the evidence in the record is equally balanced as to whether claimant inappropriately adjusted PTO balances or accrual rates for her own benefit, and the employer has not met their burden to show that claimant’s actions in this regard violated their expectations.

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<sup>2</sup> The employer purported to offer such evidence with their written argument. However, as explained above, this information was not in the hearing record, and the employer did not show that factors or circumstances beyond their reasonable control prevented them from offering it into the hearing record. As such, EAB did not consider that evidence.

To the extent that the employer discharged claimant because of her use of PTO or time spent out of the office itself, the employer also has not met their burden to show that this constituted misconduct. The record indicates that the employer was dissatisfied with claimant having spent what they considered to be excessive time out of the office. Although the employer did not explain at hearing the specific instances in which claimant was purported to be out of the office for too long, claimant's account suggests that the concerns related to her multiple absences due to a series of medical appointments, and the 12 hours she was out around Memorial Day weekend in 2025. The record does not show that claimant had reason to know of those expectations before she took off from work for either of those reasons.

For example, while the record shows that the CEO was displeased with claimant for having taken off work around Memorial Day, it is not clear from the record that claimant was on notice, prior to having taken off that time, that she was not be permitted to do so. Similarly, the only example given in the record regarding claimant having taken time off of work without using accrued PTO was when claimant would leave work for an hour or two to attend shorter medical appointments. The employer did not assert that this was considered a violation of their policies or expectations, and claimant testified that she believed she was acting in accordance with the employer's policies in doing so. Transcript at 16. Thus, the employer has not shown by a preponderance of the evidence that claimant violated their expectations willfully or with wanton negligence in using her PTO or taking time off as she described in the record.

For the above reasons, claimant was discharged, but not for misconduct, and therefore is not disqualified from receiving benefits based on the work separation.

**DECISION:** Order No. 25-UI-305879 is affirmed.

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

**DATE of Service:** November 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 دستور العمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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