

**EMPLOYMENT APPEALS BOARD DECISION**  
**2025-EAB-0676**

*Affirmed  
No Disqualification*

**PROCEDURAL HISTORY:** On July 28, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged, but not for misconduct, and was therefore not disqualified from receiving unemployment insurance benefits based on the work separation (decision # L0012180273). The employer filed a timely request for hearing. On November 3, 2025, ALJ Blam conducted a hearing at which claimant failed to appear, and on November 7, 2025, issued Order No. 25-UI-309976, affirming decision # L0012180273. On November 10, 2025, the employer filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Klamath Falls City Schools employed claimant as a cook from January 3, 2023 until March 26, 2025.

(2) The employer expected their employees to maintain regular attendance at work. Claimant understood this expectation.

(3) Throughout her employment, claimant was frequently absent from work without accrued leave to cover the absence. Claimant gave various reasons for these absences, largely relating to her children's health. The employer sometimes requested documentation from claimant to support these explanations, and claimant often failed to provide it.

(4) On February 18, 2025, claimant began an extended absence without accrued leave to cover it. Regarding this absence, claimant wrote to the employer, "I have a lot of personal stuff going on at home with all three kids: [one child's] seizures, heart murmur, and kidney failing; the kids getting into another car wreck; and all this dang sickness going back and forth. I start back to counseling next month[.] . . . Is there anything I can do? Because I don't want to lose my job." Audio Record at 13:50. Between February 18 and 28, 2025, the employer requested multiple times that claimant provide a note from a doctor supporting the need for this absence by February 28, 2025.

(5) On February 28, 2025, the employer received notice from the Department that claimant had applied for protected leave through Paid Leave Oregon. In the morning of February 28, 2025, the employer sent claimant an email reminding her that they expected her to provide documentation from a doctor supporting her need for the absence by the end of the day. Claimant responded, “I have not been able. . . to get the doctor’s note.” Audio Record at 18:50. In reply, the employer asked claimant what she had provided to the Department to support her Paid Leave Oregon claim, and claimant did not communicate with the employer thereafter. The Paid Leave Oregon claim was ultimately denied by the Department. Claimant did not perform work for the employer after February 18, 2025, and the employer began the process of discharging her after February 28, 2025.

(6) On March 26, 2025, the employer notified claimant by letter of her discharge for being absent from work since February 18, 2025 without providing documentation to support the need for the absence.

**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).

Discharge for “compelling family reasons,” when the claimant has made the attempt to maintain the employer-employee relationship, is not misconduct. OAR 471-030-0038(3)(d). “Compelling family reasons” include: “The illness or disability of a member of the individual’s immediate family necessitates care by another and the individual’s employer does not accommodate the employee’s request for time off.” OAR 471-030-0038(1)(e)(B).

The employer discharged claimant on March 26, 2025 because she had been absent from work since February 18, 2025 without accrued leave to cover the absence, and did not provide documentation in support of the need for the absence. The employer expected their employees to maintain regular attendance at work, and it can reasonably be inferred that claimant understood this expectation. The employer also notified claimant on several occasions between February 18 and 28, 2025 that they expected her to provide documentation from a doctor supporting the need for her extended absence by February 28, 2025.

The employer considered claimant’s absence from February 18 through March 26, 2025 a violation of their expectation regarding regular work attendance. Claimant told the employer that the absence was due, in part, to the serious chronic illnesses of one child, and suggested that her other children, and perhaps claimant herself, were dealing with acute illnesses or injuries during this time. The employer noted claimant’s failure to provide corroborating documentation in support of this explanation, but

otherwise did not rebut its accuracy. Claimant's February 28, 2025 message that she had been unable to obtain a doctor's note in support of her absence, as well as the Paid Leave Oregon claim she filed on or before that date, are reasonably construed as attempts to preserve the employment relationship. The employer was ultimately unwilling to accommodate claimant's request for the extended absence, as evinced by the employer beginning the process to discharge her after February 28, 2025. On this evidence, the employer has not met their burden to show that, more likely than not, claimant was absent from work for reasons other than a "compelling family reason" as defined in OAR 471-030-0038(1)(e)(B). Therefore, regarding the absence itself, the employer has not shown that claimant was discharged for misconduct.

The employer also communicated to claimant an expectation that she provide documentation from a doctor supporting her need for an extended absence by February 28, 2025. Claimant told the employer on February 28, 2025 that she had been unable to obtain such documentation, though the record does not reveal what prevented her from doing so. On or before that date, claimant requested protected leave through a Paid Leave Oregon claim, but it is unclear from the record what documentation claimant provided to the Department in support of that claim, if any, or why benefits were ultimately denied. This evidence is insufficient to conclude that, more likely than not, claimant willfully failed to seek documentation from a medical provider by February 28, 2025 to support her need for an extended absence, or that she neglected to obtain the documentation with indifference to the consequences of her inaction. Therefore, the employer has not met their burden to show that claimant violated this expectation willfully or with wanton negligence. Accordingly, claimant was not discharged for misconduct.

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

**DECISION:** Order No. 25-UI-309976 is affirmed.

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

**DATE of Service: December 17, 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 naaiintindihan 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 – សេចក្តីសម្រចន់មានផលប៉ះពាល់ដែលអភិប្លោយោងនៃគ្មានការងាររដ្ឋិភាស់លោកអ្នក។ ប្រសិនបើលោកអ្នកមិនយល់អំពីសេចក្តីសម្រចន់ គួរការខ្ចោទរណ៍ការងារភ្លាមៗ។ ប្រសិនបើលោកអ្នកមិនយល់ស្របចំពោះសេចក្តីសម្រចន់ទេ លោកអ្នកអាចជាក់ពាក្យបីដែលសំច្បោមនានការពិនិត្យឯកសារឯកទីនឹងឱ្យជាមួយកុណារខ្ចោទណ៍ដែរ Oregon ដោយអនុគត់តាមសេចក្តីណែនាំដែលសេវានាមួយចុងបញ្ហាបែនសេចក្តីសម្រចន់។

## Laotian

ເອົາໃຈໃສ່ – ຄຳຕັດສິນນີ້ມີຜົນກະທົບຕໍ່ກັບເງິນຊ່ວຍເຫຼືອການຫວ່າງງານຂອງທ່ານ. ຖ້າທ່ານບໍ່ເຂົ້າໃຈຄຳຕັດສິນນີ້, ກະລຸນາຕິດຕໍ່ຫາຄະນະກໍາມະການອຸທອນການຈ້າງງານໃນທັນທີ. ຖ້າທ່ານບໍ່ເຫັນດີນຄຳຕັດສິນນີ້, ທ່ານສາມາດຢືນຄໍາຮ້ອງຂໍການທີບທວນຄຳຕັດສິນນຳສານອຸທອນລັດ Oregon ໄດ້ໂດຍປະຕິບັດຕາມຄໍາແນະນຳທີ່ບອກໄວ້ຢ່າງເອົາໃຈໃສ່.

## Arabic

هذا القرار قد يؤثر على منحة البطالة الخاصة بك، إذا لم تفهم هذا القرار، اتصل بمجلس منازعات العمل فوراً، وإذا كنت لا توافق على هذا القرار، يمكنك رفع شكوى للمرجعية القانونية بمحكمة الاستئناف بأورغون و ذلك باتباع الإرشادات المدرجة أسفل القرار.

## Farsi

توجه - این حکم بر مزایای بیکاری شما تاثیر می گذارد. اگر با این تصمیم موافق نیستید، بلا فاصله با هیأت فر جام خواهی استخدام تماس بگیرید. اگر از این حکم رضایت ندارید، می توانید با استفاده از دستور العمل موجود در پایان آن، از دادگاه تجدید نظر اور گان در خواست تجدید نظر کنید.

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