EO: Intrastate
BYE: 04-Jul-2026

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

429
VQ 005.00

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0728

Modified
Disqualification

PROCEDURAL HISTORY: On August 19, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause and therefore was disqualified from receiving unemployment insurance benefits effective May 25, 2025 (decision # L0012441801).[1] Claimant filed a timely request for hearing. On October 30, 2025, ALJ Bender conducted a hearing, and on November 10, 2025 issued Order No. 25-UI-310042, affirming decision # L0012441801. On November 19, 2025, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant did not state that he provided a copy of his argument to the employer as required by OAR 471-041-0080(2)(a) (May 13, 2019). The argument also contained information that was not part of the hearing record and did not show that factors or circumstances beyond claimant's reasonable control prevented him from offering the information during the hearing as required by OAR 471-041-0090 (May 13, 2019). EAB considered only the information received into evidence at the hearing. *See* ORS 657.275(2).

FINDINGS OF FACT: (1) Fry Ontario, LLC (also known as Fry Foods) employed claimant, most recently as a wastewater supervisor, from October 2006 until May 19, 2025. The employer operated two factories, one in Ontario, Oregon and another in Weiser, Idaho. Prior to April 2022, claimant worked at the Weiser factory and typically worked 60 hours per week.

(2) In April 2022, the employer offered claimant a job as wastewater supervisor for both the Ontario and Weiser factories. The position description of the job stated that the person hired may be required to work nights, weekends, and holidays based on the needs of the employer. The position description also stated

[1] Decision # L0012441801 stated that claimant was denied benefits from May 25, 2025 to July 4, 2026. However, as decision # L0012441801 stated that the work separation occurred on May 31, 2025, the decision should have stated that claimant was disqualified from receiving benefits beginning Sunday, May 25, 2025 and until he earned four times his weekly benefit amount. *See* ORS 657.176.

that the job may require working on electrical equipment at the factories, or to help with troubleshooting and repairs of the equipment.

(3) Claimant spoke with the employee who supervised the wastewater supervisor position. Based on those verbal communications, claimant thought that if he accepted the job, he would work 40 hours per week and could make his own schedule. Claimant accepted the job and began working as the wastewater supervisor on or about April 4, 2022. The job was a salaried position, compensated at $80,000 per year.

(4) In October 2023, the refrigeration manager of the Ontario factory resigned. The resignation caused claimant to take over the refrigeration manager's duties. These included complying with freshwater discharge environmental quality requirements that were not part of claimant's normal duties as wastewater supervisor.

(5) Claimant considered the senior manager of the Ontario and Weiser factories, H, an unpleasant person with whom to work. In morning meetings, H would become angry and yell at or belittle his subordinates, including claimant. Claimant felt harassed by H. For a time after claimant became wastewater supervisor, H was demoted to senior manager of the Wieser factory only, and a new manager of the Ontario factory was hired. However, the new Ontario factory manager later made a payroll error and was discharged, and H returned to his role as manager of both factories.

(6) After the departure of the new Ontario factory manager, the employer's human resources (HR) manager asked many long-time employees, including claimant, to draft letters to the employer's owner stating their objections to H's treatment of them. Claimant and many of the others did so, and the letters were transmitted to the owner near the end of 2023.

(7) In response, in early 2024, the owner had a meeting with H and the HR manager, in which the owner told H that he needed to improve his treatment of subordinates. Thereafter, H's treatment of others initially improved. However, H eventually returned to belittling and yelling at others at times.

(8) On April 1, 2024, the employer hired a new refrigeration manager. Soon thereafter, the new refrigeration manager assumed all responsibilities of refrigeration, including the freshwater discharge duties that claimant had been covering. Also on April 1, 2024, the employer hired an operations supervisor. In September 2024, the operations supervisor was named acting manager of the Ontario and Weiser factories, with the employer intending for H to retire in 2027.

(9) When the operations supervisor became acting manager of the two factories, he reviewed the schedules of all salaried employees and created a master schedule that he began posting a week in advance. The operations supervisor made all salaried employees, including claimant, work nine hours per day with a one-hour lunch, for a total of 10 hours on premises. The operations manager often scheduled claimant and other salaried employees to work on Saturday, and the employer paid salaried employees who had to work on Saturdays an additional $250 per Saturday worked. Prior to implementing the schedule requiring all salaried employee to work nine hours per day with a one-hour lunch, the employer consulted with their lawyers to verify that the schedule was consistent with wage and hour laws.

(10) Claimant felt overworked by the long hours he was scheduled to work. When the operations manager implemented the schedule requiring all salaried employees to work nine hours per day with a one-hour lunch, he mentioned in a meeting his intent to impose the schedule, and that company lawyers had confirmed that the schedule was consistent with wage and hour laws. Claimant thought the long hours and mention of lawyers in the meeting were examples of harassment, and that the long hours were not necessary for business operations.

(11) The employer's Ontario factory had electricians on hand who had to use certain equipment to ensure that the factory began running on time each day. Though the electricians were master certified journeymen, they did not know how to use the factory equipment, and the employer required claimant to train them on the equipment. Once trained, the electricians eventually rotated out and claimant was required to train the new incoming group of electricians on the equipment. Beginning in late 2024 and continuing through approximately the six or seven months that followed, claimant routinely began work at 5:00 a.m., trained the electricians, and worked the remainder of the ten-hour day on premises. Claimant often worked on Saturdays and sometimes also on Sundays during this period.

(12) During claimant's tenure as wastewater supervisor, his supervisor had requested that claimant receive a pay raise on a couple of occasions. However, the employer did not give claimant a pay raise and claimant remained compensated at $80,000 per year as of mid-May 2025.

(13) Claimant was frustrated with the long hours he was assigned to work and felt he was not compensated fairly. On May 16, 2025, claimant sent a letter to H, in which he stated, "I have three options if . . . you would like me to continue employment at Fry Foods." Transcript at 33. The first option claimant presented in the letter was to stay under his current workload and receive a pay raise from $80,000 to $125,0000. The second option claimant presented was to work the wastewater supervisor position 40 hours per week with a 15% pay raise. The third option claimant presented was to work part-time, 24 hours per week, at $50 per hour. Claimant concluded the letter by stating, "[I] would love to have this resolved by June 1st, 2025. If you find none of these options agreeable[,] please accept my two-week notice." Transcript at 33.

(14) The employer considered claimant's letter and concluded that they "could not afford what [claimant] was asking." Transcript at 49. On May 19, 2025, the HR manager, claimant's supervisor, and the operations manager met with claimant and presented him with a response letter. The letter stated, "[W]e regret to inform you that we are . . . unable to accommodate these requests. Accordingly, we are formally accepting your two-week notice of resignation that you submitted on May 16th." Transcript at 34. The letter concluded by stating, "[W]e are accepting your resignation today and will pay you the last two weeks of work plus vacation at the end of your employment . . . immediately." Transcript at 34.

(15) On May 19, 2025, the employer paid claimant as specified in the letter. Claimant stopped working for the employer that day and never worked for them again.

CONCLUSIONS AND REASONS: Claimant voluntarily left 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 work separation in this case was a voluntary leaving that occurred on May 19, 2025. On May 16, 2025, claimant gave a letter to the employer in which he explicitly made his "continue[d] employment at Fry Foods" contingent upon the employer accepting one of three options presented in the letter. Transcript at 33. The three options involved either raising claimant's pay, decreasing the hours he had to work, or both. Claimant made clear that he was unwilling to continue working for the employer unless one of the options was accepted, because he concluded the letter with "If you find none of these options agreeable[,] please accept my two-week notice." Transcript at 33.

The employer did not accept any of the three options and, on May 19, 2025, advised claimant that they were accepting his resignation that day. Therefore, on May 19, 2025, when the options claimant had made his continued employment dependent upon were rejected, claimant, by the terms of his letter, was unwilling to continue working for the employer beyond the two-week notice period. The employer then effectuated the separation immediately by accepting claimant's resignation that day. In doing so, the work separation remained a voluntary leaving because through his letter, claimant delegated to the employer the ability to accept the resignation and choose the date on which to do so. *See 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).

The work separation was therefore a voluntary leaving that occurred on May 19, 2025.

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).

At hearing, claimant testified that he quit working for the employer because the job had "become just more of a harassment and hostile environment than [he] could take." Transcript at 5. Claimant also attributed his resignation to being assigned "extra work" without being compensated and having to routinely be at the factory at 5:00 a.m. to train the electricians. Transcript at 19. Claimant also identified as "last straw[s]" his requirement to train the electricians, and the fact that the operations supervisor had assigned all salaried employees to work ten-hour on-premises days, which claimant thought was unnecessary to business operations and therefore was imposed on him as a form of harassment. Transcript at 12, 21-22.

First, to the extent the added duties of the refrigeration manager caused or contributed to claimant's decision to leave work, claimant failed to show that he left work with good cause. At hearing, claimant

testified that he was still performing the added duties of the refrigeration manager when he quit in May 2025. Transcript at 7, 52. In contrast, the operations supervisor testified that a replacement refrigeration manager was hired on April 1, 2024, and soon thereafter assumed all responsibilities of refrigeration. Transcript at 45. As these two accounts are equally balanced and claimant bears the burden of proof, the weight of the evidence favors the operations supervisor's account, and the facts of this decision have been found accordingly. Therefore, the record fails to show that claimant was responsible for the duties of the refrigeration manager when he quit, and so was not presented with a situation of gravity based on having to carry out those duties.

Next, claimant also failed to prove that he left work with good cause to the extent he quit due to being required to work nine hours per day with a one-hour lunch, and his duties training the electricians, which required him to be at the factory at 5:00 a.m. Beginning in late 2024 and continuing through the months that followed until he resigned, claimant routinely began work at 5:00 a.m., trained the electricians, and worked the remainder of the ten-hour day on premises. Claimant often worked on Saturdays and sometimes also on Sundays during this period. It is evident that the long hours claimant was required to work were exhausting and difficult.

However, claimant failed to meet his burden to show that the long hours and electrician-training duties presented him with a grave situation. Claimant was a salaried employee, and the ten-hour day on-premises schedule was imposed on all salaried employees. Though claimant believed based on verbal communications prior to taking the job that he would only have to work 40 hours per week as wastewater supervisor, the position description of the job advised that the person hired may be required to work nights, weekends, and holidays based on the needs of the employer. The position description also stated that the job may require working on electrical equipment, and claimant acknowledged at hearing that he knew when he took the job that training the electricians on the equipment was his responsibility. Transcript at 7, 10, 19. The weight of the evidence supports that the long hours claimant worked and his role training the electricians were necessary to factory operations, as both claimant and the operations supervisor testified that claimant's efforts enabled the factory to start on time each day. Transcript at 12, 15, 48.

Additionally, to the extent that claimant quit work because of H's harassing conduct, claimant also failed to show that he left work with good cause. It is undisputed that H subjected claimant at times to yelling and belittling during meetings, as he did with many other employees. The record shows that in early 2024, the employer's owner spoke to H about his treatment of employees, and H's behavior improved for a time before returning to its previous baseline. Nevertheless, at the time of claimant's resignation, the record suggests that the frequency of H subjecting claimant and others to yelling or belittling likely declined as H had taken a step back and the operations supervisor was the acting manager of the factories, with H expected to retire in 2027. H's conduct of subjecting claimant and others to yelling and belittling at times, which appears to have diminished in frequency at the time of claimant's work separation, was not sufficient to have presented claimant with a situation of such gravity that he had no reasonable alternative but to leave work.[2]

[2] Note further that the employer's owner had addressed H's treatment of employees in early 2024 resulting in improvement of H's conduct for a time. This suggests that if H's eventual return to treating employees harshly had been brought to the owner's attention, the owner would have again taken action that likely would have resulted in improvement of H's conduct. However, at hearing, the HR manager testified that neither claimant nor any other employee ever brought forward a complaint about H's conduct returning to how it had been previously, that if someone had complained the HR manager

Moreover, while claimant posited at hearing that the long work hours and extra duties he was assigned were imposed by H as retaliation for his 2023 complaint, or to cause claimant to quit, these assertions were rebutted by the employer's witnesses. Transcript at 16, 18, 20, 22. The HR manager testified that during the months leading up to claimant's resignation, all salaried employees were working 50 or 60 hours per week. Transcript at 36. The operations supervisor testified that claimant was relieved of the refrigeration manger's duties shortly after April 1, 2024. Transcript at 45. The operations supervisor further testified that he, not H, standardized the work schedule for all salaried employees. Transcript at 46-47. The operations supervisor also testified that he had claimant come in at 5:00 a.m. during the period leading up to claimant's resignation because the employer was "struggling with the start-up of the plant" and claimant's efforts were needed because claimant was "extremely knowledgeable." Transcript at 48. Based on this evidence, the record fails to support claimant's contention that the employer imposed the long hours or extra duties on claimant to retaliate against him, or to cause him to quit.

Finally, in assessing whether claimant faced a grave situation when he quit, both as to the long working hours and H's treatment of him, it is significant that claimant was willing to continue working if the employer gave him a pay raise. This suggests that the conditions claimant faced were not intolerable to him but rather were conditions that he regarded as manageable so long as he was compensated at a rate that he felt was fair. In the final analysis, while claimant's hours and duties were long and burdensome and H's yelling at and belittling of claimant was improper, claimant did not meet his burden to prove that he faced a situation of such gravity that he had no reasonable alternative but to quit when he did.

Accordingly, claimant voluntarily quit work without good cause, and is disqualified from receiving unemployment insurance benefits effective May 18, 2025.

The order under review concluded that claimant voluntarily quit work without good cause and was disqualified from receiving benefits effective May 25, 2025. Order No. 25-UI-310042 at 3. However, because the work separation in this case occurred on May 19, 2025, the effective date of disqualification was the Sunday of that week, May 18, 2025. Therefore, Order No. 25-UI-310042 is modified to reflect that the disqualification from benefits is effective May 18, 2025.

DECISION: Order No. 25-UI-310042 is modified, as outlined above.

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

DATE of Service: <u>December 31, 2025</u>

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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would have investigated diligently, and his understanding that H had returned to yelling and belittling employees was based on casual talk among friends in the workplace. Transcript at 39-40.

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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 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.

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