

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0733

*Modified
Request to Reopen Allowed
No Disqualification*

PROCEDURAL HISTORY: On August 20, 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 from July 6, 2025 to July 4, 2026 (decision # L0012581878). Claimant filed a timely request for hearing. On September 26, 2025, notice was mailed to claimant that a hearing was scheduled for October 7, 2025. On October 7, 2025, claimant failed to appear for the hearing, and ALJ Allen issued Order No. 25-UI-306243, dismissing claimant's request for hearing due to her failure to appear. On October 21, 2025, claimant filed a request to reopen the October 7, 2025 hearing. On November 18, 2025, ALJ Contreras conducted a hearing at which the employer failed to appear, and on November 20, 2025, issued Order No. 25-UI-311581, cancelling Order No. 25-UI-306243, allowing claimant's request to reopen, and modifying decision # L0012581878 by concluding that claimant quit work without good cause and was disqualified from receiving benefits effective July 6, 2025, and until requalified under Department law. On November 25, 2025, claimant filed an application for review of Order No. 25-UI-311581 with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: EAB did not consider claimant's written argument because she did not state that she provided a copy of her argument to the employer as required by OAR 471-041-0080(2)(a) (May 13, 2019).

PARTIAL ADOPTION: EAB considered the entire hearing record, including witness testimony and any exhibits admitted as evidence. EAB agrees with the part of Order No. 25-UI-311581 allowing claimant's request to reopen. That part of Order No. 25-UI-311581 is **adopted**. *See* ORS 657.275(2).

FINDINGS OF FACT: (1) Marion & Polk Schools Credit Union employed claimant from July 30, 2023 until July 7, 2025. Claimant initially worked for the employer as manager of learning and development.

- (2) In January 2025, claimant received the results of an annual review, which were “glowing,” and did not mention any points of dissatisfaction with her performance. Transcript at 14.
- (3) On March 11, 2025, claimant asked her supervisor for forms to request protected leave under Paid Leave Oregon, due to a spinal condition claimant had first disclosed to the supervisor on February 25, 2025. Later on March 11, 2025, after asking for the leave forms, the supervisor “raised vague concerns” about claimant’s performance in the areas of “training delivery and team relationships.” Exhibit 2 at 21. These concerns had not previously been raised. Claimant was granted protected leave from March 28, 2025 through April 20, 2025. Claimant returned to work on April 21, 2025.
- (4) On April 22, 2025, the employer notified claimant that she was being demoted to a non-managerial position with a corresponding salary reduction from \$106,000 to \$55,800 annually. Claimant was told that if she failed to accept the demotion or resign, she would be discharged. Claimant was not given a reason for the demotion and her supervisor refused to answer claimant’s questions about what had led to it.
- (5) On April 23, 2025, claimant began another period of protected leave which lasted through June 22, 2025. On April 25, 2025, claimant accepted the demotion.
- (6) On May 13, 2025, the employer told claimant that they had hired a replacement for the manager of learning and development position, and that the replacement would begin work on May 29, 2025.
- (7) On May 14, 2025, claimant filed a complaint with the Bureau of Labor and Industries (BOLI), alleging that the employer had unlawfully demoted her in retaliation for having taken protected leave.
- (8) On June 23, 2025, claimant returned to work. That day, she filed a complaint with the employer’s human resources department, alleging that her demotion had been in retaliation for having taken protected leave. On June 25, 2025, claimant supplemented the complaint, raising concerns about working conditions since her June 23, 2025 return. Claimant felt that since her return, the work environment was “very difficult. . . [and] very uncomfortable,” in part because her coworkers, whom she had supervised until the most recent period of leave began, were avoiding interacting with her, and she was “not given projects or things to work on. . . [and] didn’t do anything.” Transcript at 17, 19-20.
- (9) On or around June 30, 2025, the employer told claimant that they deemed her complaints unfounded. In response, claimant disclosed the existence of the pending May 14, 2025 BOLI complaint, of which the employer apparently had been unaware. Shortly thereafter, the employer asked claimant if she would consider settling the BOLI complaint and other potential causes of action and separating from employment, in exchange for a lump-sum payment. Thereafter, claimant and the employer negotiated the terms of such a settlement, which both parties executed on July 2, 2025. *See* Exhibit 2 at 2-8.
- (10) On July 7, 2025, claimant stopped working for the employer in accordance with the terms of the settlement agreement. Claimant received \$34,912.64 in consideration for her separation from employment and release of all potential claims against the employer.

CONCLUSIONS AND REASONS: Claimant voluntarily quit work with good cause.

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) (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).

A claimant who leaves work due to a reduction in pay has left work without good cause unless “the newly reduced rate of pay is ten percent or more below the median rate of pay for similar work in the individual’s normal labor market area. The median rate of pay in the individual’s labor market shall be determined by employees of the Employment Department adjudicating office using available research data compiled by the department.” OAR 471-030-0038(5)(d).

* * *

(A) This section applies only when the employer reduces the rate of pay for the position the individual holds. It does not apply when an employee’s earnings are reduced as a result of transfer, demotion or reassignment.

* * *

ORS 657B.060 provides, in relevant part:

- (1) (a) Except as provided in paragraph (b) of this subsection, after returning to work after a period of family leave, medical leave or safe leave, an eligible employee is entitled to be restored to the position of employment held by the employee when the leave commenced, if that position still exists, without regard to whether the employer filled the position with a replacement worker during the period of leave. If the position held by the employee at the time leave commenced no longer exists, the employee is entitled to be restored to any available equivalent position with equivalent employment benefits, pay and other terms and conditions of employment. If an equivalent position is not available at the job site of the employee’s former position, the employer shall offer the employee an equivalent position at a job site located within 50 miles of the job site of the employee’s former position, if such a position is available. If equivalent positions are available at multiple job sites, the employer shall first offer the employee the position at the job site that is nearest to the job site of the employee’s former position.

(b) For employers that employ fewer than 25 employees, if the position held by an eligible employee when the employee’s leave commenced no longer exists, an employer may, at the employer’s discretion based on business necessity, restore the eligible employee to a different position with similar job duties and with the same employment benefits and pay.

* * *

(4) It is an unlawful employment practice to discriminate against an eligible employee who has invoked any provision of this chapter.

(5) Nothing in this section entitles an eligible employee to accrue employment benefits during a period of leave or to a right, benefit or position of employment other than a right, benefit or position to which the employee would have been entitled had the employee not taken leave.

* * *

Claimant quit work in accordance with the terms of an agreement she reached to settle potential claims against the employer, including that the employer had violated ORS 657B.060.¹ The order under review concluded that claimant did not face a grave situation in being demoted with a corresponding salary reduction, and in being offered a cash settlement in exchange for separating from work and releasing the employer from potential claims. Order No. 25-UI-311581 at 6. The record does not support this conclusion.

Claimant's belief that her demotion was in retaliation for having taken protected leave under Paid Leave Oregon is supported by the timeline of events, and the lack of an alternate explanation for the employer's conduct. In January 2025, claimant received a positive performance review that did not mention any points of dissatisfaction with her work. The employer did not express any dissatisfaction with claimant's performance until March 11, 2025, just after claimant requested forms to apply for Paid Leave Oregon benefits from her supervisor earlier that day. Claimant was granted protected leave from March 28, 2025 through April 20, 2025. On April 22, 2025, claimant's second day back from leave, the employer notified claimant of her demotion with a corresponding pay reduction amounting to approximately half her salary. The employer would not explain to claimant the reason for her demotion. Claimant began another period of protected leave the following day, and on April 25, 2025, accepted the demotion because she felt she had no alternative. On May 14, 2025, claimant filed a BOLI complaint regarding the demotion after learning that the employer had hired a permanent replacement for her former position. Claimant returned from leave on June 23, 2025, and filed a complaint regarding the demotion with the employer's human resources department that day. Approximately one week later, the employer told claimant that they deemed her complaint unfounded, but after claimant mentioned the May 14, 2025 BOLI complaint, the employer immediately proposed settling potential claims under terms that included claimant withdrawing the BOLI complaint and separating from employment.

Under these circumstances, a reasonable and prudent person, exercising ordinary common sense, would believe that the employer had unlawfully retaliated against them for taking protected leave. Faced with the options of continuing to work for the employer in a non-managerial role for approximately half their previous salary, or separating from employment with an approximately \$35,000 payment, a reasonable and prudent person would choose the latter. Therefore, claimant faced a grave situation. Although claimant quit work due, in part, to a reduction in pay, OAR 471-030-0038(5)(d) does not preclude a finding of good cause because the reduction in pay was due to a demotion. *See* OAR 471-030-0038(5)(d)(A).

¹ Claimant did not assert, and the record does not otherwise suggest, that the employer planned to discharge claimant on July 7, 2025, or disallow her to continue working after that date, even if she declined to execute the settlement agreement. Because claimant could have continued working for the employer for an additional period of time after July 7, 2025, had she not signed the agreement, the work separation was a voluntary leaving. *See* OAR 471-030-0038(2)(a) and (b).

Furthermore, claimant had no reasonable alternative to quitting work when she did. While claimant could have waited for a response from BOLI regarding her complaint, it may have taken months or years to receive, and may have resulted in compensation less favorable than that provided under the terms of the settlement. Moreover, claimant would have endured the continuing effects of the employer's unlawful practices in receiving approximately half her former salary if she continued to work while the BOLI investigation proceeded. Where unfair labor practices are ongoing or there is a substantial risk of recurrence, it is not reasonable to expect a claimant to continue to work for an indefinite period of time while the unfair practices are handled by BOLI. *J. Clancy Bedspreads and Draperies v. Wheeler*, 152 Or App 646, 954 P2d 1265 (1998). Accordingly, claimant had no reasonable alternative but to accept the settlement agreement and separate from work under its terms, and therefore quit with good cause.

For these reasons, claimant voluntarily quit work with good cause, and is therefore not disqualified from receiving unemployment insurance benefits based on the work separation.

DECISION: Order No. 25-UI-311581 is modified, as outlined above.

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

DATE of Service: December 30, 2025

NOTE: This decision reverses the ALJ's order denying claimant benefits. Please note that in most cases, payment of benefits owed 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 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 – សេចក្តីសិក្សប្រចាំនេះមានដូចខាងក្រោម៖ ពាល់ដូលអត្ថប្រយោជន៍គ្មានការងារធ្វើរបស់លោកអ្នកមិនយល់អំពីសេចក្តីសិក្សប្រចាំនេះ សូមទាក់ទងគណៈកម្មការខ្លួនណ៍ការងារភ្នំពេញ។ ប្រសិនបើលោកអ្នកមិនយល់ស្របចំពេទេះសេចក្តីសិក្សប្រចាំនេះទេ លោកអ្នកអាជីវកម្មនឹងសំឡុងខែកញ្ចប់និងការពិនិត្យឯកសារទូទៅនៃសេចក្តីសិក្សប្រចាំនេះ។

Laotian

ເອົາໃຈສេះ – ការតັດສິນនີ້ມີຜົນກະທົບຕໍ່ກັບເງິນຊ່ວຍເຫຼືອການຫວ່າງງານຂອງທ່ານ. ຖ້າທ່ານບໍ່ເຂົ້າໃຈກារតັດສິນນີ້, ກະລຸນາຕິດຕໍ່ຫາຄະນະກຳມະການອຸທອນການຈ້າງງານໃນທັນທີ. ຖ້າທ່ານບໍ່ເຫັນດີນີ້ກារតັດສິນນີ້, ທ່ານສາມາດຢືນດັບກ່ຽວຂ້ອງກຳນົດການທີ່ທັນທຳກារតັດສິນນີ້ກຳນົດ Oregon ໄດ້ໄດ້ປະຕິບັດຕາມດຳເນັ້ນທີ່ບອກໄວ້ຢູ່ຕອນທ້າປະຂອງກារតັດສິນນີ້.

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 للمراجعة القانونية بمحكمة الاستئناف بأوريغون و ذلك باتباع الإرشادات المدرجة أسفل القرار.

Farsi

توجه - این حکم بر مزایای بیکاری شما تاثیر می گذارد. اگر با این تصمیم موافق نیستید، بالاصله با هیأت فرجام 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 اورگان درخواست تجدید نظر کنید.

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