

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0755

*Reversed
No Disqualification*

PROCEDURAL HISTORY: On September 19, 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 denied unemployment insurance benefits from August 17, 2025 to August 15, 2026 (decision # L0013004088). Claimant filed a timely request for hearing. On November 19, 2025, ALJ Jarry conducted a hearing, and on November 21, 2025 issued Order No. 25-UI-311812, modifying decision # L0013004088 by concluding that claimant voluntarily quit work without good cause and was therefore disqualified from receiving benefits effective July 27, 2025. On December 2, 2025, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant did not say that she provided a copy of her 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 her 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) Fast Break of Oregon LLC employed claimant, most recently as an assistant manager, at their convenience store from September 12, 2022 until August 2, 2025.

(2) Claimant had generalized anxiety disorder, which, during times of significant stress, caused claimant to have panic attacks. The panic attacks made claimant lose her balance and feel dizzy, sweat excessively, and feel like she would lose consciousness. Claimant suffered from anxiety and panic attacks prior to March or April 2025, and saw a doctor to help address the conditions.

(3) During claimant's employment, the employer's store was often understaffed. Ideally, the store staffed five or six employees. However, in the spring and summer of 2025, the employer's store had only three employees, including claimant.

(4) By law, claimant was entitled to an unpaid meal period of at least 30 minutes each day she worked at least six hours. In May 2025, claimant's manager presented claimant with an Oregon Bureau of Labor and Industries (BOLI) form agreement to waive claimant's meal period. Though claimant was a convenience store worker, the form agreement was drafted to apply to meal or beverage servers who receive tips. *See Exhibit 1 at 1 ("I am at least 18 years of age and am employed as a meal and/or beverage server; I receive tips and report the tips to my employer[.]")*. The form included a term specifying that the meal period waiver may be revoked by giving seven days' notice. Exhibit 1 at 1.

(5) The manager asked claimant to sign the form agreement, and claimant replied, "What if I didn't?", to which the manager stated that "majority rules." Audio Record at 20:15. Claimant regarded the manager's reference to "majority rules" to mean that the meal waiver "was going to happen." Audio Record at 21:33. Claimant understood from the manager's comment that "higher ups in the company" had approved waiving the meal breaks before the manager presented claimant with the form, and that it would be fruitless to raise the issue with an employee senior to the manager. Audio Record at 21:40 to 22:09. Claimant "just went along with the program," and read and signed the form. Audio Record at 22:23.

(6) By law, claimant was entitled to a paid rest period of at least ten minutes for every four-hour period or major part thereof that she worked. Claimant found that in the spring and summer of 2025, she often had to cut her ten-minute breaks short because customers would need assistance and no other employee was available to cover due to the store being understaffed.

(7) Starting in mid-May 2025 and continuing through the end of that month into early June 2025, claimant worked 21 days in a row, working about 6.2 hours each day. During this period, claimant did not take a meal break because of the waiver. Claimant was also frequently unable to take the full ten-minute breaks she was entitled to take because of the understaffing problem.

(8) Working so many days in a row without meal breaks or full rest breaks made claimant's "stress level go up real super high." Audio Record at 14:17. As a result, claimant had frequent panic attacks during May and June 2025. Claimant brought up her panic attacks with her manager. The manager told claimant that while having a panic attack at work, claimant could sit at the manager's desk.

(9) In the period leading up to early June 2025, claimant experienced an additional source of stress due to having to care for her mother-in-law, who was ill. On June 3, 2025, claimant's mother-in-law passed away. After her mother-in-law's death and after having completed the 21 consecutive days of work, claimant took a week off from work.

(10) When claimant returned to work from her week off, the staffing level of the store was unchanged and she found that she continued to suffer from anxiety and stress-induced panic attacks. At or near the beginning of July 2025, claimant saw her doctor and explained that her panic attacks were causing her to have "a real problem." Audio Record at 18:43. The doctor prescribed claimant medication and referred claimant to a therapist.

(11) The medication and therapy helped claimant only to a limited degree. Claimant continued to work shifts without meal breaks and with rest breaks that were frequently cut short or interrupted. Claimant continued to have panic attacks each week and sometimes daily. As of mid-July 2025, the employer still

had not hired more staff at the convenience store. Claimant determined that her health had declined to a point that she should no longer work for the employer.

(12) On or about July 19, 2025, claimant gave the employer notice of her intent to resign effective August 2, 2025. On August 2, 2025, claimant quit working for the employer, as planned.

(13) Prior to resigning, claimant did not raise with the employer's human resources (HR) department that she was suffering from anxiety and panic attacks, or that her 10-minute rest breaks were often cut short or interrupted. Prior to resigning, claimant did not revoke the meal waiver by giving seven days' notice to the employer. After her resignation, claimant made a complaint about the employer's break practices with BOLI.

CONCLUSIONS AND REASONS: Claimant voluntarily left 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 Depart.*, 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 Depart.*, 348 Or 605, 612, 236 P3d 722 (2010). Claimant had generalized anxiety disorder, a permanent or long-term "physical or mental impairment" as defined at 29 CFR §1630.2(h).

The order under review concluded that claimant voluntarily quit work without good cause because, it reasoned, claimant failed to pursue reasonable alternatives before she quit work. Order No. 25-UI-311812 at 3. Because the record shows that claimant sought all alternatives before leaving work that were reasonably available and not futile to pursue, the record does not support the conclusion of the order under review.

Claimant faced a grave situation. Claimant had anxiety, which, during times of significant stress, caused panic attacks that made her lose her balance and feel dizzy, sweat excessively, and feel like she would lose consciousness. When claimant quit working for the employer, she was experiencing significant stress because the employer's store was understaffed, claimant was not receiving meal breaks, and her rest breaks were frequently interrupted or cut short. An additional source of stress at the time of claimant's resignation was the recent passing of claimant's mother-in-law. A reasonable person with the characteristics of someone with claimant's anxiety disorder would leave work to avoid the stress that induced claimant's debilitating panic attacks.

Claimant pursued reasonable alternatives to quitting work but those efforts were unsuccessful. Claimant raised her panic attacks with her manager and the manager offered to allow claimant to sit at the manager's desk while having an attack at work. The record fails to show that being allowed to sit at the manager's desk did anything to prevent the panic attacks from occurring, as the attacks were the result of stress induced by understaffing and inadequate breaks. Furthermore, given that the store was understaffed such that claimant's rest breaks were often cut short, it is doubtful that the store's staffing

level was sufficient to permit claimant to take the time away from customers to sit at the desk when dealing with an attack.

Claimant also took a week off from work after she worked 21 days straight and following the passing of her mother-in-law. However, when claimant returned to work from her week off, the staffing level of the store was unchanged and claimant found that she continued to suffer from anxiety and stress-induced panic attacks. Thereafter, claimant sought help from her doctor, who prescribed claimant medication and referred her to a therapist. However, these supports helped claimant only to a limited degree and claimant continued to have panic attacks each week and sometimes daily.

Prior to resigning, claimant did not raise with the employer's HR department that she was suffering from anxiety and panic attacks, or that her 10-minute rest breaks were often cut short or interrupted. However, doing so, more likely than not, would have been useless. The record shows that the root of claimant's stress-induced panic attacks and inadequate rest breaks was the fact that the employer's store was chronically understaffed. There was no significant likelihood that the HR department would have addressed the understaffing problem as the employer's witness, an HR administrator, testified at hearing that the store had a turnover rate of "close to 100%, year over year." Audio Record at 29:44. *See Fisher v. Employment Department*, 911 P2d 975, 139 Or App 320 (Or. App. 1996) (for a course of action to be considered a reasonable alternative to quitting, the record must show that such course of action was actually available to the individual). While the HR department may have been able to offer claimant time off or a leave of absence, claimant took a week off of work after she worked 21 days in a row and following the passing of her mother-in-law, and that effort was not effective in addressing the situation of gravity claimant faced.

Prior to resigning, claimant did not revoke the meal waiver by giving seven days' notice to the employer. However, the absence of a meal break each day claimant worked was only one component driving the stress that induced claimant's panic attacks. Having the meal breaks restored would do nothing to address claimant's interrupted and shortened rest breaks, the other element driving claimant's stress-induced anxiety and panic attacks. Furthermore, requiring claimant to wait the required seven-day period for her meal breaks to be restored would have imposed an unreasonable delay during which the grave situation claimant faced would remain wholly unaddressed.¹

Finally, prior to resigning claimant did not make a complaint with BOLI about the employer's break practices, but rather, did so after she resigned. However, making a complaint first, and then waiting for BOLI to process the complaint, investigate, and potentially take action was not a reasonable alternative to leaving work. At minimum, the record shows that, more likely than not, claimant's often shortened and interrupted rest breaks constituted an improper labor practice.² While such a practice was ongoing and contributing to the grave situation claimant faced, it was not reasonable to expect claimant to

¹ In addition, when the manager asked claimant to sign the meal break waiver form, claimant replied, "What if I didn't?", to which the manager stated that "majority rules." Audio Record at 20:15. Claimant reasonably interpreted this interaction to mean that the waiver "was going to happen" regardless and that "higher ups in the company" had approved waiving the meal breaks before the manager presented claimant with the form. Audio Record at 21:33 to 21:40. Given that the exchange with the manager caused claimant to reasonably conclude that she would be subject to the meal break waiver whether she signed the form or not, a reasonable person with the characteristics of someone with claimant's anxiety disorder would likewise conclude that giving notice to revoke the waiver would not result in their meal break actually being restored.

² See <https://www.oregon.gov/boli/workers/Pages/meals-and-breaks.aspx> .

continue working indefinitely while waiting for the matter to be addressed by BOLI. *See J. Clancy Bedspreads and Draperies v. Wheeler*, 152 Or App 646, 954 P2d 1265 (1998) (where unfair labor practices are ongoing or there is a substantial risk of recurrence, it is not reasonable to expect claimant to continue to work for an indefinite period of time while the unfair practices are handled by BOLI).

For the reasons discussed above, claimant faced a situation of such gravity that she had no reasonable alternative but to leave work when she did. Claimant therefore voluntarily left work with good cause, and is therefore not disqualified from receiving unemployment insurance benefits based on the work separation.

DECISION: Order No. 25-UI-311812 is set aside, as outlined above.

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

DATE of Service: January 7, 2026

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.

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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 Tự 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 – សេចក្តីសម្រាប់នាមដានដល់ប៉ះពាល់ដល់អត្ថប្រយោជន៍ត្រានការងារធ្វើរបស់លោកអ្នក។ ប្រសិនបើលោកអ្នកមិនយល់អំពីសេចក្តីសម្រាប់នេះ សូមទាក់ទងគណៈកម្មការខ្លួនរបស់ការងារភ្នាម។ ប្រសិនបើលោកអ្នកមិនយល់ស្របចំពោះសេចក្តីសម្រាប់នេះទេ លោកអ្នកអាចជាក់ពាក្យបីដែលសំច្បាប់នាមនានការពិនិត្យឱ្យក្នុងវិញ្ញាបាមួយគុណខ្លួនរណ៍ដើម្បី Oregon ដោយអនុវត្តតាមសេចក្តីណែនាំដែលសាសនាឌានីខាងចែងបញ្ចប់នៃសេចក្តីសម្រាប់នេះ។

Laotian

ເອີໃຈໃສ່ – ຄຳຕັດສິນນີ້ມີຜົນກະທິບຕໍ່ກັບເງິນຊ່ວຍເຫຼືອການທ່ວ່າງງານຂອງທ່ານ. ຖ້າທ່ານບໍ່ເຂົ້າໃຈຄຳຕັດສິນນີ້, ກະລຸນາຕິດຕໍ່ຫາຄະນະກຳມະການອຸທອນການຈ້າງງານໃນຫັນທີ. ຖ້າທ່ານບໍ່ເຫັນດີນຄຳຕັດສິນນີ້, ທ່ານສາມາດຢືນຄໍາຮ້ອງຂໍການທີບຫວນຄຳຕັດສິນນຳສານອຸທອນລັດ Oregon ໄດ້ໄດ້ປະຕິບັດຕາມຄໍາແນະນຸ່ງໃຫ້ປະກໄວ້ຢ່າງຍໍາຍຂອງຄຳຕັດສິນນີ້.

Arabic

هذا القرار قد يؤثر على منحة البطلة الخاصة بك، إذا لم تفهم هذا القرار، إتصل بمجلس منازعات العمل فوراً، وإذا كنت لا توافق على هذا القرار، يمكنك رفع شكوى للبرلمانية القانونية بمحكمة الاستئناف بأورغون وذلك باتخاذ 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، ممکن است از استفاده از دستور العمل موجود در پیاز آن، از دادگاه تجدید نظر اور گان در خواست تجدید نظر کنید.

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

Phone: (503) 378-2077 | 1-800-734-6949 | Fax: (503) 378-2129 | TDD: 711

Email: appealsboard@employ.oregon.gov

Website: www.oregon.gov/employ/pages/employment-appeals-board.aspx

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