

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0783

*Reversed
No Disqualification*

PROCEDURAL HISTORY: On October 2, 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 # L0013265260). The employer filed a timely request for hearing. On December 9, 2025, ALJ Naylor conducted a hearing, and on December 10, 2025 issued Order No. 25-UI-313626, reversing decision # L0013265260 by concluding that claimant was discharged for misconduct and was therefore disqualified from receiving benefits effective August 31, 2025. On December 15, 2025, claimant filed an application for review of Order No. 25-UI-313626 with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) TTEC Services Corporation employed claimant in customer service from August 2021 until September 2, 2025. In August 2025, claimant worked from her home, providing telephone customer service to customers of a telehealth company.

(2) The employer expected their employees to interact with customers in a polite and professional manner. Claimant understood this expectation.

(3) On August 9, 2025, claimant was speaking with a “very difficult” customer and “became heated” at the customer’s frustration and sarcasm. Transcript at 23-24. Claimant used an impolite tone and abruptly transferred the call to another employee despite the caller not wanting to be transferred. Immediately following the call, claimant expected to be disciplined. After a supervisor listened to a recording of the call, claimant was issued a “final written warning” for unprofessional conduct toward a customer. Transcript at 5.

(4) Following the warning, claimant listened to recordings of another employee’s calls to learn how to improve her own performance on calls. On August 17, 2025, claimant told her supervisor that she had been doing this and had concerns with the employee’s behavior toward customers during some of those recorded calls. The supervisor told claimant that she was not allowed to listen to other employees’ calls

unless there was a reason for doing so that was specific to serving the customer at issue, or as otherwise directed. Claimant understood this expectation following that conversation.

(5) On August 21, 2025, claimant was not scheduled to work and did not log into her work computer, access the employer's telephone system, or listen to any calls or recordings of calls that day.

(6) On August 26, 2025, claimant's supervisor reviewed a computer log that appeared to show that claimant had listened to another employee's call on August 21, 2025 at 6:18 a.m. without claimant having had any reason to provide service to that customer.

(7) On September 2, 2025, the employer discharged claimant based on their belief that claimant had listened to another employee's call on August 21, 2025.

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 based on their belief that she had listened to another employee's call on August 21, 2025. The employer reasonably expected that their employees would not listen to other employees' calls, except as necessary to assist a specific customer or as otherwise directed. Claimant understood this expectation after August 17, 2025. The order under review concluded that, more likely than not, claimant listened to the call on August 21, 2025. Order No. 25-UI-313626 at 3. The record does not support this conclusion.

Claimant's supervisor testified that computer logs she reviewed showed that claimant listened to another employee's call on August 21, 2025 at 6:18 a.m. Transcript at 17. The supervisor also testified that the matter had been brought to her attention by a manager, but did not know how that manager had learned of it. Transcript at 21. The parties agreed that August 21, 2025 was a scheduled day off for claimant, and that she therefore had no business reason to be logged into her work computer or listening to a call that day. In contrast to the supervisor's testimony, claimant testified, "I definitely did not listen to a call on my day off because I wasn't there." Transcript at 32. Claimant also explained, "I would not have been logged into my computer or anywhere near my computer on my day off." Transcript at 27. Claimant denied having listened to any other employees' calls at any time following the August 17, 2025 admonition not to do so. Transcript at 31.

In weighing the conflicting evidence as to whether claimant listened to the August 21, 2025 call, it is no more than equally balanced. The record does not suggest any motive for claimant to have listened to this particular call, or for her to have chosen the early morning of her day off to do so, especially after having been warned four days earlier not to listen to other employees' calls. Under these circumstances, the supervisor's testimony regarding the contents of the computer log is insufficient to outweigh claimant's first-hand denial of having accessed the employer's systems that day or listened to the call. Therefore, the employer failed to show by a preponderance of the evidence that claimant violated the employer's expectation regarding the proximate cause of her discharge. 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-313626 is set aside, as outlined above.

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

DATE of Service: January 22, 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.

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 – សេចក្តីសិក្សាប្រចាំនេះមានដល់បោះពុម្ពប្រយោជន៍គ្នានករង់រដ្ឋបស់លោកអ្នក។ ប្រសិនបើលោកអ្នកមិនយល់អំពីសេចក្តីសិក្សាប្រចាំនេះ សូមទាក់ទងគណៈកម្មការខ្លួនណ៍ការងារភ្នែកមិនយល់ស្របចំពេះសេចក្តីសិក្សាប្រចាំនេះទេ លោកអ្នកអាជីវកម្មនឹងសំឡុងមានការពិនិត្យឯកសារឡើងវិញដាមួយកុណាមួយខ្លួនណារដ្ឋ Oregon ដោយអនុវត្តតាមសេចក្តីណែនាំដែលសារពន្ល់ខាងចុងបញ្ជបញ្ចប់នៃសេចក្តីសិក្សាប្រចាំនេះ។

Laotian

ເອົາໃຈສេះ – ការតັດສິນនີ້ມີຜົນກະທົບຕໍ່ກັບເງິນຊ່ວຍເຫຼືອການຫວ່າງງານຂອງທ່ານ. ຖ້າທ່ານບໍ່ເຂົ້າໃຈការតັດສິນນີ້, ກະລຸນາຕິດຕໍ່ຫາຄະນະກຳມະການອຸທອນການຈ້າງງານໃນທັນທີ. ຖ້າທ່ານບໍ່ເຫັນດີນີ້ກារតັດສິນນີ້, ທ່ານສາມາດຢືນດັບກ່ອງຂໍການທີບທວນការຕັດສິນນຳສານອຸທອນລັດ Oregon ໄດ້ໂດຍປະຕິບັດຕາມດໍາເນະນຳທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງការຕັດສິນນີ້.

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.

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

The Oregon Employment Department is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Language assistance is available to persons with limited English proficiency at no cost.

El Departamento de Empleo de Oregon es un programa que respeta la igualdad de oportunidades. Disponemos de servicios o ayudas auxiliares, formatos alternos y asistencia de idiomas para personas con discapacidades o conocimiento limitado del inglés, a pedido y sin costo.