

**EMPLOYMENT APPEALS BOARD DECISION**  
**2026-EAB-0066**

*Modified*  
*Disqualification Effective October 26, 2025 (Week 44-25)*

**PROCEDURAL HISTORY:** On December 9, 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 October 26, 2025 through October 31, 2026 (decision # L0014487489). Claimant filed a timely request for hearing. On January 2, 2026, ALJ Griffith conducted a hearing, and on January 5, 2026 issued Order No. 26-UI-316089, modifying decision # L0014487489 by concluding that claimant quit work without good cause and was disqualified from receiving benefits effective October 19, 2025, and until requalified.<sup>1</sup> On January 16, 2026, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Gorges Brewing, LLC employed claimant as a full-time line cook at a restaurant and event venue from June 4, 2025 until October 29, 2025.

(2) At hire, the parties expected claimant to work through early November 2025, be laid off through the winter due to a seasonal slowdown in business, and likely be rehired in March 2026 for the next busy season. Claimant had planned to work on opening his own pop-up restaurant while laid off during the winter.

(3) By early October 2025, claimant decided he would not be working on his own pop-up restaurant during the winter due to a pending lawsuit, and asked the employer if he could continue working through the winter. The employer's general manager agreed, intending to give claimant full-time or close to full-time hours, though the two did not specifically discuss work hours.

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<sup>1</sup> Although Order No. 26-UI-316089 stated it affirmed decision # L0014487489, it modified that decision by changing the effective date of the disqualification from October 26, 2025 to October 19, 2025, and accurately stating that the disqualification was effective until requalified under applicable law. Order No. 26-UI-316089 at 3.

(4) On approximately October 12, 2025, claimant told the general manager that he had changed his mind about working through the winter and asked to be laid off as previously planned when he was hired. The parties agreed that claimant would be laid off after his November 2, 2025 shift, and eligible for rehire in March 2026 for the next busy season.

(5) Claimant changed his mind about working through the winter based, in part, on a conversation with the venue's executive chef, who "said that when it slows down they don't have as many people in the kitchen. So there probably wouldn't be hours." Transcript at 15. The chef was not responsible for employee scheduling, and claimant did not discuss this topic with the general manager. Claimant was also concerned about a co-worker who had missed work due to an injury "need[ing] the hours more than [claimant]," and claimant asked to be laid off due to these concerns about work hours. Transcript at 13.

(6) From October 28, 2025 through November 2, 2025, claimant was scheduled to work 40 hours. Claimant had last worked a shift on October 25, 2025. On October 28, 2025, claimant texted the employer, "So I blew out my knee today duck hunting. . . I have an MRI tomorrow morning. I can barely walk as it is. My phone also is destroyed from going into the water. I'm texting from my iPad." Transcript at 23. Claimant did not appear for his remaining scheduled shifts or contact the employer further.

(7) By claimant failing to appear for work or contact the employer from October 29, 2025 through November 2, 2025, the employer "assumed he no longer wanted to be employed," and did not schedule him for any further shifts or attempt to contact him after November 2, 2025. Transcript at 26. Claimant did not work the remainder of his scheduled shifts due to his knee sprain, and did not contact the employer again about missing work because his phone was broken.<sup>2</sup> Claimant believed he had been laid off after his November 2, 2025 scheduled shift, and that the employer would offer to rehire him in March 2026. Claimant had not requested a medical leave of absence while working for the employer.

(8) Shortly before being hired by the employer, claimant was diagnosed with attention deficit hyperactivity disorder (ADHD) and anxiety, and received treatment for these conditions during his employment. Claimant did not quit work due to symptoms from these conditions, but told the general manager during the October 12, 2025 conversation that his therapist thought it would be a "good idea if he was able to take some time off," and that it would be "kind of a bonus" to not work through the winter as he dealt with the "very stressful" lawsuit regarding his restaurant venture, and related mental health symptoms. Transcript at 9, 16-17.

**CONCLUSIONS AND REASONS:** Claimant voluntarily quit 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).

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<sup>2</sup> Claimant did not explain at hearing why he could not contact the employer thereafter through his iPad or by means other than his broken phone.

At the time claimant was hired, the parties expected his employment to be seasonal, and that he would be laid off after the busy season ended on November 2, 2025. However, by early October 2025, the parties had agreed, at claimant's request, that he would work through the winter. As of October 12, 2025, the employer remained willing to continuously employ claimant after November 2, 2025, but claimant requested on that date that he instead be laid off as originally planned, and the employer assented. Despite the parties characterizing this as a planned layoff, because claimant could have continued working for the employer after November 2, 2025, but he expressed an unwillingness to do so by asking instead to be laid off, it would have amounted to a voluntary leaving had the work separation occurred as planned on November 2, 2025.

Claimant last performed work for the employer on October 25, 2025, and was scheduled to work from October 28, 2025 through November 2, 2025. However, on October 28, 2025, claimant was injured and texted the employer that he was not coming to work that day for that reason.<sup>3</sup> Claimant did not report for his remaining scheduled shifts or contact the employer thereafter to explain why he was absent, and the employer reasonably concluded from this that claimant was unwilling to continue the employment relationship on or after October 29, 2025.<sup>4</sup> Accordingly, the work separation was a voluntary leaving that occurred on October 29, 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 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 ADHD, a permanent or long-term “physical or mental impairment” as defined at 29 CFR §1630.2(h).

On October 12, 2025, claimant asked the employer to lay him off on November 2, 2025, despite knowing the employer was willing to continue employing him after that date. Due to a knee sprain sustained on October 28, 2025, claimant advanced the date of his work separation, leaving work on October 29, 2025 by failing to report for work or maintain contact with the employer regarding his continued absence on and after that date. It is unclear from the record how long the knee sprain impacted claimant's ability to perform his work for the employer. However, it is reasonable to infer that had claimant not asked the employer on October 12, 2025 to lay him off on November 2, 2025, the employer would have accommodated a request for leave from October 28, 2025 until claimant was able to resume working, even if after November 2, 2025. As such, to the extent claimant quit work due to the October 28, 2025 knee injury, this did not constitute a grave situation. Moreover, even if it were a grave

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<sup>3</sup> The order under review concluded that the work separation occurred on October 25, 2025 because it was the last day claimant performed work. Order No. 26-UI-316089 at 1-2. The record does not support this conclusion because claimant's October 28, 2025 text message notifying the employer he would be absent from work that day evinced that the employment relationship remained intact as of that date.

<sup>4</sup> It is possible claimant was temporarily unable to work from October 29 through November 2, 2025 due to his knee injury, but was otherwise willing to do so. However, his failure to contact the employer after October 28, 2025 to let them know this, regardless of whether his phone was broken, reasonably conveyed to the employer that he decided to end the employment relationship on October 29, 2025, rather than November 2, 2025.

situation, claimant did not avail himself of the reasonable alternative to quitting of requesting a brief period of leave to recover from the injury.

As to claimant's reasons for asking the employer on October 12, 2025 to lay him off for the winter, claimant had previously abandoned his original plan to spend the winter working on opening a pop-up restaurant, and this was not a factor in his decision to quit work. When asked at hearing why he "stopped working for this [e]mployer," claimant initially testified that it "was agreed there wasn't going to be enough hours," then explained that he "had a co-worker who had like broken her foot. And when she came back she needed the hours more than me which is why I agreed to get laid off. Because she was in a hole needing to make money and unemployment denied her during that." Transcript at 13. Regarding the scheduling of work hours during the winter, claimant testified that the executive chef had "said that when it slows down they don't have as many people in the kitchen. So there probably wouldn't be hours." Transcript at 15. However, claimant admitted that the chef did not make the work schedule, and that claimant did not "specifically" inquire of the general manager whether this would affect either his or his co-worker's hours. Transcript at 15-16. The general manager testified, "[U]sually what we do is find hours for the folks that are staying [through the winter]. Um, so we do run a skeleton crew. We do not keep all of the crew. Um, but the crew that we do keep we try to find hours for as close to full-time as possible." Transcript at 22. Claimant was also asked at hearing, "If you were under the impression that the [e]mployer would have been able to continue to employ you full-time. . . would you have quit anyway?" and claimant responded, "No." Transcript at 19.

Under these circumstances, a reasonable and prudent person with the characteristics and qualities of someone with an impairment such as claimant's would not quit work due to the mistaken belief that their or their co-worker's hours might be reduced. More likely than not, the employer intended to offer full-time or near-full-time hours for employees who remained through the winter, and claimant did not take reasonable steps to discuss his concerns with the person responsible for scheduling, the general manager, prior to asking to be laid off. Therefore, this did not constitute a grave situation, and even if it were grave, claimant had the reasonable alternative of clarifying the employer's intentions regarding winter scheduling.

Finally, claimant testified to "struggling through" mental health symptoms while working for the employer after having been diagnosed with ADHD and anxiety shortly before being hired. Transcript at 18. Claimant suggested that the symptoms were related, in part, to his involvement in a "very stressful" lawsuit regarding the pop-up restaurant venture. Transcript at 16. When asked at hearing, "Would it be a fair statement to say that. . . your ADHD and anxiety were not the reason you quit your job?" claimant replied, "I would say that they were not. No." Transcript at 19. Under these circumstances, claimant has not shown that a reasonable and prudent person with the characteristics and qualities of someone with an impairment such as claimant's would quit work due to the severity of symptoms he was experiencing. Therefore, claimant did not face a grave situation in that regard. Accordingly, claimant's reasons for quitting work, individually or in combination, did not constitute a situation of such gravity that he had no reasonable alternative but to quit work, and therefore quit without good cause.

For these reasons, claimant voluntarily quit work without good cause and is therefore disqualified from receiving unemployment insurance benefits effective October 26, 2025.

**DECISION:** Order No. 26-UI-316089 is modified, as outlined above.

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

**DATE of Service: March 2, 2026**

**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。

## 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 desisyong ito.

## 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 ໄດ້ໂດຍປະຕິບັດຕາມຄໍາແນະນຳທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄໍາຕັດສິນນີ້.

**Arabic**

هذا القرار قد يؤثر على منحة البطالة الخاصة بك، إذا لم تفهم هذا القرار، إتصل بمجلس منازعات العمل فوراً، و إذا كنت لا توافق على هذا القرار، يمكنك رفع شكوى للمراجعة القانونية محكمة 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 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**  
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