

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0122

Affirmed
Disqualification

PROCEDURAL HISTORY: On November 26, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit work with good cause and was not disqualified from receiving unemployment insurance benefits based on the work separation (decision # L0014357832). The employer filed a timely request for hearing. On January 15, 2026, ALJ Murray conducted a hearing, and on January 16, 2026, issued Order No. 26-UI-317345, reversing decision # L0014357832 by concluding that claimant voluntarily quit work without good cause and therefore was disqualified from receiving benefits effective May 11, 2025. On February 5, 2026, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant submitted written arguments on February 5, March 3, and March 5, 2026. EAB did not consider claimant's February 5, 2026 argument because claimant did not state that he provided a copy of the argument to the employer as required by OAR 471-041-0080(2)(a) (May 13, 2019). EAB did not consider the March 5, 2026 argument because it was not received by EAB within the time allowed under OAR 471-041-0080(1). OAR 471-041-0080(2)(b). EAB considered claimant's March 3, 2026 argument.¹

Claimant's March 3, 2026 argument asserts that the ALJ improperly admitted Exhibit 1 into evidence, and requests that EAB consider additional evidence attached to his argument. Claimant's March 3, 2026

¹ Under OAR 471-041-0080(1), claimant's written arguments were due by March 3, 2026. Claimant's March 3, 2026 argument was submitted that day. OAR 471-041-0080(2)(a) required the argument to include a statement that a copy was provided to the opposing party or parties. Claimant's March 3, 2026 argument contains a declaration of service that, although it references the employer's outside counsel, is sufficient to satisfy OAR 471-041-0080(2)(a). See Claimant's March 3, 2026 Written Argument at 6.

Written Argument at 2. The argument asks that EAB reverse the order under review and either find in claimant's favor, or remand for another hearing to allow claimant to seek to admit into the hearing record the documents attached to his argument. Claimant's March 3, 2026 Written Argument at 6.

At the January 15, 2025 hearing, the ALJ admitted Exhibit 1, offered by the employer, into the hearing record. Transcript at 30. Exhibit 1 consisted of a five-page letter with four attached commission forms. The letter and forms were sent by the employer's outside counsel to claimant's counsel on January 5, 2026, and appear to respond to a litigation demand letter previously sent by claimant's counsel to the employer.

The following occurred relating to the admission of Exhibit 1. At hearing, the ALJ asked claimant if he had received the document and claimant stated that he had not. Audio Record at 5:08 to 5:44. The ALJ asked the employer's representative how and when the document was served on claimant, and the representative stated it was sent by certified mail and that he would pull the information as to when it was sent. Audio Record at 5:50 to 6:11. The ALJ asked claimant to look and see if he had received anything, to which claimant responded, "Yeah, again, you know, because something was sent to my house doesn't mean that I received it" and "I don't have any records of receiving anything. I haven't signed for anything specific." Audio Record at 6:35 to 7:03.

The employer's representative then returned to the line and stated that he had "pulled the US Postal Service certified mail receipt" and that "according to the US Postal Service website," the document was "received by" claimant on January 9, 2026. Audio Record at 7:13 to 8:10. Claimant then stated, "I had a . . . note on my door from U.S. Postal. But I did not receive any document." Audio Record at 8:09. The ALJ advised that they would reserve ruling on the admission of the document until the end of the hearing. Audio Record at 8:50. After the witnesses testified, the ALJ admitted the document into the hearing record, stating that doing so was necessary to make a full and fair determination, and noting that the document would be attached to their order with instructions regarding how to object. Transcript at 30.

The next day, January 16, 2026, the ALJ issued Order No. 26-UI-317345. In an "Evidentiary Rulings" section, the order noted that the document was admitted as Exhibit 1, and specified that objections could be made in writing within five days of the order's mailing date. Order No. 26-UI-317345 at 1. The order did not cite Exhibit 1 and appeared to rely exclusively upon testimonial evidence for its findings and conclusions. Claimant did not submit an objection to admission of Exhibit 1.

OAR 471-040-0023(4) (August 1, 2004) provides that "[p]rior to commencement of an evidentiary hearing that is held by telephone, each party and the Department shall provide to all other parties and to the Department copies of documentary evidence that it will seek to introduce into the record."

The ALJ either did not err by admitting Exhibit 1 into the hearing record, or, if they did, the error was harmless.² First, although claimant's explanation fluctuated somewhat, he ultimately stated that the

² Because claimant did not submit an objection relating to Exhibit 1's admission into evidence, there is some question as to whether claimant preserved his ability to argue that the ALJ erred in admitting it. The ALJ advised at hearing that the order would include instructions for submitting objections. Transcript at 30. Order No. 26-UI-317345 specified that objections needed to be in writing and filed within 5 days of its mailing. Order No. 26-UI-317345 at 1. However, claimant never filed an objection. The failure to submit a written objection is potentially wasteful of administrative resources, since it is possible that

Postal Service left a note on his door regarding Exhibit 1. Audio Record at 8:09. This supports the inference that claimant was notified that the Postal Service had attempted to deliver mail to him containing Exhibit 1 and he was expected to either pick it up or be available to receive delivery of it the next time delivery was attempted. With the note having been left on January 9, 2026, claimant had sufficient time to pick up the mail containing Exhibit 1 or enable the Postal Service to complete delivery of it before the January 15, 2026 hearing. These points suggest that the employer would be regarded as having provided a copy of the exhibit to claimant constructively, such that OAR 471-040-0023(4) would not act as a bar to admission of the exhibit into the hearing record.

Further, even if the exhibit was admitted into the hearing record in error, any such error was immaterial as it does not appear that any information uniquely contained in Exhibit 1 was relied upon by Order No. 26-UI-317345. Therefore, the error, if any, was harmless. The order under review did not cite Exhibit 1, and its only mention of the exhibit is in its “Evidentiary Rulings” section. Order No. 26-UI-317345 at 1. Review of Order No. 26-UI-317345 confirms that it is supported by substantial evidence and reason, and its findings and conclusions were likely based exclusively upon testimonial evidence offered at hearing.

Specifically, the order’s facts section found that in October 2024, the employer did not pay claimant commissions and bonuses owed; that claimant raised the unpaid compensation with the employer’s payroll department, but not human resources; and that in April 2025, the employer conducted an audit, discovered the unpaid compensation, and then paid claimant what he was owed. Order No. 26-UI-317345 at 2. The order found that claimant tendered a resignation letter in late April 2025; resigned effective May 14, 2025; and that his resignation letter did not reference any compensation issue. Order No. 26-UI-317345 at 2. The order concluded claimant quit work without good cause because he failed to show that he faced a grave situation when he quit given that the employer had paid claimant what he was owed. Order No. 26-UI-317345 at 3.

The foregoing tracks the testimonial evidence. Claimant testified that he complained about the unpaid income owed six months before his resignation, approximately October 2024. Transcript at 8-9. Claimant testified that he had verbal and written conversations with the employer about the income, but did not contact human resources. Transcript at 9-10. Claimant’s supervisor testified that three weeks prior to claimant’s resignation, the employer audited the issue and made full payment to claimant. Transcript at 16. Claimant’s supervisor testified that afterward, claimant approached the supervisor about the unpaid amounts and raised the issue with payroll, and the employer provided claimant a response email to which claimant did not respond. Transcript at 17-18. The supervisor read claimant’s resignation letter into the record, noting it was transmitted to him in late April 2025, gave notice of a May 14, 2025 resignation date, and did not mention any compensation issue. Transcript at 19-20. In rebuttal, claimant testified that he was not fully paid what he was owed and was paid partially only after his resignation. Transcript at 24. While claimant and his supervisor thus offered conflicting accounts of whether claimant had been fully paid, the evidence on that disputed point was equally balanced, and claimant bore the burden of proof, so it was appropriate for the order to find facts in accordance with claimant’s supervisor’s testimony on that point.

the ALJ would have reconsidered and excluded the exhibit had an objection been made. Nevertheless, because some of claimant’s comments at hearing regarding having not received service of the exhibit can be construed as an objection to its admission, EAB views the issue as adequately preserved. Audio Record at 6:35 to 7:03.

The above comparison shows that the order under review is supported by substantial evidence and reason and reflects only the essential facts established by the testimonial evidence. The order's facts and conclusions are rather general. This is consistent with the character of the testimonial evidence, which featured a relative lack of detail. Claimant, for example, repeatedly refused to testify about specific details, citing anticipated litigation against the employer. *See* Transcript at 8, 9, 10, 11-12, 14, 24, 25, and 26. The essential facts and conclusions contained in the order also suggest that the order eschewed relying upon Exhibit 1, because Exhibit 1 contains detailed information about specific projects, compensation figures, and the like.³

Accordingly, review of the circumstances surrounding admission of Exhibit 1 shows either that it was properly admitted, or its admission was harmless error because the order under review did not rely upon any information uniquely contained within it.

Turning to claimant's request for additional evidence, claimant requests that EAB consider the following:

- Claimant's litigation demand letter with attachments that claimant's counsel sent to outside counsel for the employer on November 13, 2025. Claimant's March 3, 2026 Written Argument at 12-20.
- A January 27, 2026 email from claimant's counsel to the employer's outside counsel. Claimant's March 3, 2026 Written Argument at 21.
- A February 3, 2026 email from the employer's outside counsel to claimant's counsel, with attachments. Claimant's March 3, 2026 Written Argument at 22-24.

Under OAR 471-041-0090(1)(b) (May 13, 2019), "Any party may request that EAB consider additional evidence, and EAB may allow such a request when the party offering the additional evidence establishes that: (A) The additional evidence is relevant and material to EAB's determination, and (B) Factors or circumstances beyond the party's reasonable control prevented the party from offering the additional evidence into the hearing record."

Claimant's additional evidence request is denied. As to the November 13, 2025 litigation demand letter, claimant could have offered the document into the hearing record during the January 15, 2026 hearing, but failed to do so. Claimant therefore failed to show that factors or circumstances beyond his reasonable control prevented him from offering the additional evidence into the hearing record. As to the January 27 and February 3, 2026 emails between counsel for the parties, the request is denied because the emails are not relevant and material to EAB's determination in this case.

ADOPTION OF HEARING ORDER: EAB considered the entire hearing record, including witness testimony and any exhibits admitted as evidence. EAB agrees with Order No. 26-UI-317345's findings of fact, reasoning, and conclusion that claimant voluntarily quit work without good cause and therefore was disqualified from receiving unemployment insurance benefits effective May 11, 2025. Order No. 26-UI-317345 is **adopted**. *See* ORS 657.275(2).

³ Though Exhibit 1 contains more detail than the testimonial evidence, the document is of limited usefulness. The document is word dense, hard to follow, and assumes familiarity with details that the reader is not acquainted with. The document was also prepared in anticipation of litigation, and contains references to matters that are beyond the scope of the issues presented in this case.

DECISION: Order No. 26-UI-317345 is affirmed.

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

DATE of Service: March 24, 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.

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 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.

