

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0135

Reversed & Remanded

PROCEDURAL HISTORY: On November 3, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged, but not for misconduct, and therefore was not disqualified from receiving unemployment insurance benefits based on the work separation (decision # L0013805339). The employer filed a timely request for hearing. On January 28, 2026, ALJ Laurie-Gardiner conducted a hearing that was interpreted in Albanian, and issued Order No. 26-UI-318430, reversing decision # L0013805399 by concluding that claimant voluntarily quit work without good cause, and therefore was disqualified from receiving benefits effective October 5, 2025. On February 9, 2026, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant's argument contained information that was not part of the hearing record and did not show that factors or circumstances beyond claimant's reasonable control prevented him from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB considered only information received into evidence at the hearing. EAB considered any parts of claimant's argument that were based on the hearing record.

The parties may offer new information, such as the new information contained in claimant's written argument, into evidence at the remand hearing. At that time, the ALJ will determine if the new information will be admitted into the record. The parties must follow the instructions on the notice of the remand hearing about documents they wish to have considered at the hearing. These instructions will direct the parties to provide copies of such documents to the ALJ and the other parties before the hearing at their addresses on the certificate of mailing for the notice of hearing.

FINDINGS OF FACT: (1) Portland Glass Manufacturing, Inc. employed claimant at their manufacturing plant from September 19, 2022 until approximately October 2025.

(2) Claimant's primary language is Albanian, and he has limited proficiency in English. As such, claimant and the employer often relied on a supervisor at the plant, "K," who was fluent in Albanian, to interpret between claimant and the employer.

(3) The employer expected that plant employees, regardless of where they were typically stationed, to temporarily assist in different departments when assigned to do so. Claimant was aware of this expectation, and followed it by accepting assignments in other departments at various times during his employment.

(4) Sometime prior to October 2025, claimant made plans to travel to Albania to obtain dental care. Claimant requested time off from work to cover the trip, but had difficulties providing the employer with the paperwork they required. Claimant nevertheless took the trip as planned.

(5) When claimant returned from his trip, he came to believe that the employer had discharged him. Despite this, claimant still returned to work for the employer. However, the employer assigned him to work in their tempering department, whereas he had previously been working in the insulated glass product department.

(6) On October 3, 2025, the plant manager, using K as an interpreter, asked claimant to assist in the insulated glass department. Claimant refused to do so because of concerns relating to his pay. In response, the plant manager sent claimant home for the day. Claimant went home for the day as directed. Claimant did not work for the employer again.

CONCLUSIONS AND REASONS: Order No. 26-UI-318430 is set aside and this matter remanded for further development of the record.

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). “Work” means “the continuing relationship between an employer and an employee.” OAR 471-030-0038(1)(a).

The parties disputed the nature of the work separation. At hearing, the plant manager asserted that claimant had quit by sending a text message to K on October 6, 2025 stating “that if [claimant] were to come back to work that it would be likely [that the plant manager] would ask him to work in another department again,” and was not coming back to work because he did not want to do that. Transcript at 17–18. The employer did not offer a copy of this text message into the record, and the plant manager testified at hearing that he did not have a copy of it. Transcript at 39. By contrast, K testified at hearing that he did not receive any text messages or phone calls from claimant on that date regarding claimant’s return to work. Transcript at 47–48. Additionally, claimant testified that he did not send K a text message on October 6, 2025. Transcript at 32. As such, the record does not show, by a preponderance of the evidence, that claimant sent any such text message to K on October 6, 2025 indicating that he was quitting. This and other factors must be examined to determine whether claimant quit or was discharged.

As to the conversation on October 3, 2025, both of the employer’s witnesses testified that claimant had been told that he was only being sent home for the day, and should return to work the following Monday, October 6, 2025. Transcript at 21, 47. By contrast, claimant testified that on October 3, 2025, the plant manager told claimant that he was “terminated from work,” and did not tell claimant to return

to work on the following Monday. Transcript at 32. Based on the testimony from the employer's two witnesses, the order under review gave more weight to the employer's account, and found that claimant had voluntarily quit work despite being told to return to work on the following Monday. Order No. 26-UI-318430 at 2. The record as developed does not support this conclusion.

Given the language barrier, the record suggests that the above discrepancy in the record may be, at least in part, the result of an incomplete or inaccurate interpretation of the plant manager's statements to claimant. On remand, the ALJ should confirm precisely what K told claimant on October 3, 2025 in Albanian, so that a certified interpreter can, if necessary, provide a more accurate translation of what claimant heard or understood during that conversation. This is relevant because it is possible, for instance, that claimant may have erroneously but in good faith heard the employer's statement to him as meaning that he had actually been discharged. The ALJ should therefore also clarify with claimant why he believed he had been discharged, including whether claimant followed up with the plant manager, K, or anyone else with the employer to confirm why he had been discharged or any other details regarding his employment status. The ALJ should ask whether claimant had any other contact with K between October 3 and 6, 2025 and, if so, when and how such contacts occurred, and what was discussed between claimant and K.

Additionally, the ALJ should further develop the record regarding claimant's concerns relating to his pay that led him to refuse to work in the other department as the employer had directed. At hearing, claimant repeatedly offered testimony suggesting that his belief that he had previously been discharged and then rehired, and a resulting change in compensation, led him to refuse to work in the other department on October 3, 2025.¹ However, further clarification is necessary as to why this seemingly-unrelated concern would lead claimant to refuse to follow the plant manager's directions. The ALJ should also ask claimant whether he became unwilling to continue to work for the employer in any capacity due to either claimant's concerns about compensation or the reassignment to another department.

Finally, the record was poorly developed regarding the circumstances leading up to the events of October 3, 2025. At hearing, claimant repeatedly attempted to offer such testimony, but the ALJ excluded much of it on relevance grounds. *See, e.g.*, Transcript at 33. As a result, while the record shows that claimant had taken a trip to Albania to obtain dental work prior to the events leading to the work separation, it is difficult to discern when any of these events occurred or how, if at all, they may have impacted either party's willingness to continue the employment relationship. Thus, the ALJ erred in excluding this testimony.

On remand, the ALJ should develop the record to show when claimant requested time off from work; whether the employer granted the request and, if not, why not; when claimant was in Albania; whether claimant was paid, or was told he would be paid, for his time off; how, if at all, his absence affected his employment status with the employer, including whether the employer had discharged claimant in relation to his absence and, if so, when and for what specific reason; whether claimant was rehired at some point after being discharged and, if so, when; and whether there was a change in claimant's rate of pay after he returned from Albania and, if so, why. The ALJ should also clarify any ambiguities in the

¹ *See, e.g.*, Transcript at 29–30 (“Well, after I returned from my . . . leave . . . it seems like . . . I was . . . terminated . . . from work. [W]hich meant that . . . the three years of . . . benefits . . . were wiped . . . out. And so I had to start all over again as a new hire. That's why I refused [to work in the other department].”)

testimony on remand, particularly if they appear to be the result of a language barrier. To the extent that this line of inquiry shows or suggests motives for either party to have decided to end the employment relationship, the ALJ should weigh this evidence accordingly when determining the nature of the work separation.

To the extent that the record on remand shows that the employer discharged claimant, the ALJ should develop the record to show why and when the employer discharged claimant, including, e.g., whether they did so because claimant refused to work in the other department as directed; whether they did so out of a mistaken belief that claimant had quit; or for some other reason. The ALJ should also develop the record to show whether the reason the employer discharged claimant constituted a willful or wantonly negligent violation of their expectations; and, if so, whether claimant had previously engaged in other conduct that could also be considered willful or wantonly negligent violations of the employer's expectations.²

To the extent that the record on remand shows that claimant voluntarily quit work, the ALJ should develop the record to show why and when claimant quit, including, for example, because the employer had directed him to work in another department; because of circumstances relating to his compensation; because of a mistaken belief that he had been discharged; or for some other reason. The ALJ should also develop the record to show whether claimant had any reasonable alternatives to quitting for the reason he did and, if so, whether he pursued those alternatives prior to quitting, so as to determine whether claimant quit for a reason of such gravity that he had no reasonable alternative but to quit.³

ORS 657.270 requires the ALJ to give all parties a reasonable opportunity for a fair hearing. That obligation requires the ALJ to ensure that the record developed at the hearing shows a full and fair inquiry into the facts necessary to consider all the issues before the ALJ. ORS 657.270(3); *see accord Dennis v. Employment Division*, 302 Or 160, 728 P2d 12 (1986). Because further development of the record is necessary to decide whether claimant voluntarily quit or was discharged and, in either case, whether the work separation was disqualifying, Order No. 26-UI-318430 is reversed and this matter remanded to the Office of Administrative Hearings for another hearing and order.

DECISION: Order No. 26-UI-318430 is set aside, and this matter remanded for further proceedings consistent with this order.

² 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). "[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."

³ 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). "[T]he reason must be of such gravity that the individual has no reasonable alternative but to leave work." OAR 471-030-0038(4).

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

DATE of Service: March 26, 2026

Kujdes - Ky vendim ndikon në përfitimet tuaja të papunësisë. Nëse nuk e kuptoni këtë vendim dhe keni nevojë për ndihmë për përkthim, kontaktoni menjëherë Bordin për Apelim të Punësimit.

Attention – This decision affects your unemployment benefits. If you do not understand this decision and need translation assistance, contact the Employment Appeals Board immediately.

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 26-UI-318430 or return this matter to EAB. Only a timely application for review of the order mailed to the parties after the remand hearing will return this matter to EAB.

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