

**EMPLOYMENT APPEALS BOARD DECISION**  
**2026-EAB-0149**

*Reversed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On November 19, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit work without good cause and therefore was disqualified from receiving unemployment insurance benefits from October 19, 2025 to October 17, 2026 (decision # L0014237672). Claimant filed a timely request for hearing. On February 4, 2026, ALJ Franco conducted a hearing, and on February 10, 2026, issued Order No. 26-UI-319766, modifying decision # L0014237672 by concluding that claimant voluntarily quit work without good cause and therefore was disqualified from receiving benefits effective October 19, 2025, and until requalified. On February 13, 2026, claimant filed an application for review with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** Claimant submitted a written argument on February 26, 2026, and advised that he had provided a copy to the employer a few days later, on March 1, 2026. 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.

**FINDINGS OF FACT:** (1) Panco Foods, Inc. employed claimant, most recently as their quality assurance manager, from December 15, 2021 until October 20, 2025.

(2) The employer manufactured a mushroom jerky food product. The manufacturing process involved taking mushroom and storing them in bins as "crush," which then were kept in barrels as "prep." Transcript at 10. The prep was then made into cooked product. The employer stored the crush, prep, and cooked mushroom product in a walk-in cooler at a temperature of 41 degrees Fahrenheit.<sup>1</sup> The cooked product was also required to remain within a particular moisture range.

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<sup>1</sup> All temperature references in this decision are in Fahrenheit.

(3) A part of claimant's job was to develop food safety standards for the employer and sign off that the employer's product met those standards. Claimant understood that quality assurance managers such as himself could be held legally liable for releasing unsafe food to consumers.

(4) At some point during claimant's employment, he took a leave of absence. Upon claimant's return to work, the employer received numerous customer complaints about mold in product that had been shipped during claimant's leave. These customers complained of seeing white mold on the product and of having gastrointestinal problems and diarrhea after eating the product. Rather than recall the product, the employer's response was "[l]et's ride it out" because the product was "[p]retty close to end of shelf life." Transcript at 14. Claimant found the employer's lack of responsiveness to the mold complaints dismaying.

(5) On Friday October 17, 2025, claimant noticed that the cooler used to store the mushrooms was at a temperature of 57 degrees. Claimant told the employer's maintenance lead to check on the improper temperature in the cooler. Later that day, the maintenance lead told claimant that the temperature problem looked bad and that he had informed the employer's CEO of the issue. The maintenance lead told claimant that the CEO had said to "let [the cooler] ride" over the weekend because there had been past instances in which the cooler's temperature would spike high then return to the desired level. Transcript at 9. When claimant checked the cooler at the end of the day on October 17, 2025, the temperature was still 57 degrees.

(6) On Monday October 20, 2025, in the early morning, claimant arrived at work and checked the cooler. The cooler was still at 57 degrees. Claimant met with the employer's director of operations to discuss the issue. At around that time, a production team member told claimant that mold had been found on the mushroom prep that was being cooked that morning. Claimant checked the product in the cooler. When claimant did so, he saw that half the mushroom prep and a third of the mushroom crush had visible mold. Claimant informed the director of operations of the mold, who then departed for a meeting with the CEO.

(7) Claimant checked the cooked product in the cooler and determined that a third of it was outside the acceptable moisture range. Claimant then analyzed the cooked product by looking at it and smelling it, which caused him to throw up. Claimant used a probe thermometer and determined that the internal temperature of the various mushroom materials held in the cooler was 57.33 degrees on average. Transcript at 11. Claimant met again with the director of operations and told her about the high average internal temperatures and the out-of-range moisture levels in the cooked product. The director of operations told claimant that the CEO told her that his "call was to scrape the mold off [of the prep and the crush] and continue the process." Transcript at 11. Claimant told the operations director that he was not comfortable doing that and that he would talk to the CEO about the call to scrape off the mold and continue the process. Claimant went to the CEO's office and waited for him to get off a call.

(8) In the meeting, claimant informed the CEO of the cooked product's high average internal temperatures, moisture level, and that looking at it and smelling it had made him throw up. The CEO told claimant that he did not know about those specific issues with the cooked product. Claimant informed the CEO that the product had been out of proper temperature for multiple days, that the product should be discarded, that they were facing a food safety issue, and that he could not agree with

scraping mold off the product and continue processing. The CEO said he was not aware of the scope of the problem and wanted to come down and check the product.

(9) The CEO went to the cooler and claimant showed him the crush and prep with mold, and the moisture level of the cooked product. The CEO then left the cooler. Claimant, the CEO, the director of operations, and the maintenance lead then met. The CEO said to continue to process the mushroom crush that did not have visible mold. Claimant objected to doing so, and the CEO requested claimant go to his office for another meeting.

(10) Meeting again in the CEO's office, the CEO told claimant that he thought the cooking step would kill enough mold to make the product safe. Claimant reminded the CEO of the employer's inaction after receiving mold complaints about cooked product. Claimant stated that he could not "be a part of" waiting to see if the then-current batch of product showed signs of mold on store shelves and then again "saying the product is close to expiration . . . let's just let it ride." Transcript at 15. The CEO stated that discarding all the mushroom materials kept at 57 degrees would be difficult financially and that the current production represented one cycle of payroll. The CEO stated that he wanted to wait on the decision of whether to discard the materials. Claimant thought the need to discard the mushroom materials kept at 57 degrees was obvious. When the CEO stated that he wanted to wait on the decision, claimant turned in his keys and resigned.

(11) Claimant resigned because he was concerned that the employer would release unsafe food and that doing so was immoral, could harm his reputation, and could potentially subject him to legal liability.

(12) After claimant resigned, the employer consulted with a food scientist and most of the mushroom materials that had been kept at 57 degrees was discarded. However, some of the cooked product made on October 20, 2025 from prep that had mold was released for sale.

**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 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) (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 Dept.*, 348 Or 605, 612, 236 P3d 722 (2010).

Claimant voluntarily quit work because he was concerned that the employer would release unsafe food and that doing so was immoral, could harm his reputation, and could potentially subject him to legal liability. The order under review concluded that claimant voluntarily left work without good cause because, although his situation was grave, he failed to pursue reasonable alternatives prior to leaving work. Order No. 26-UI-319766 at 3-4. The record does not support the conclusion that reasonable alternatives were available to claimant.

Claimant faced a grave situation. Claimant developed the employer's food safety standards and was responsible for seeing to it that the employer's product met those standards. Claimant understood that

quality assurance managers such as himself could be held legally liable for releasing unsafe food to consumers. Claimant also believed it was morally wrong to do so, and that doing so could harm his reputation. Further, while claimant had previously been away on leave, some amount of cooked product with mold had been released for sale, which caused customers to complain of gastrointestinal problems and diarrhea.

The employer's crush, prep, and cooked mushroom product were all required to be stored at 41 degrees, and the cooked product was required to be within a particular moisture range. However, as of October 20, 2025, all three types of mushroom materials had been refrigerated at about 57 degrees for days; a third of the cooked product was too wet; significant amounts of the mushroom crush and prep showed visible mold; a production team member had told claimant that mushroom prep with mold had been used to make cooked product that day; and when claimant analyzed the cooked product by smelling and looking at it, doing so caused him to throw up.

Both with respect to the previous customer complaints of mold and as to the mold problems that emerged between October 17 and 20, 2025, the employer lacked responsiveness. Rather than recall or otherwise address the moldy cooked product noted upon claimant's return from leave, the employer's position was "[l]et's ride it out" because the product was "[p]retty close to end of shelf life." Transcript at 14. On October 17, 2025, when claimant noticed the refrigerator's temperature was 57 degrees and coordinated with the maintenance lead to inform the CEO, the CEO had said to let the cooler "ride" over the weekend because of past instances when the unit would spike high then return to the correct temperature. Transcript at 9. On the morning of October 20, 2025, after claimant observed that half the prep and a third of the crush had visible mold, the CEO told the director of operations to simply scrape the mold off the materials and continue using them. Claimant then had a meeting with the CEO in which claimant explained the severity of the problem, and claimant and the CEO went together to look at the materials in the cooler. Upon exiting the cooler, the CEO mentioned continuing to process the crush that did not have visible mold. Claimant and the CEO then had another meeting, and after mentioning the financial difficulty discarding the materials would present to the employer, the CEO stated that he wanted to wait on the decision of whether to discard the materials.

A reasonable and prudent person in claimant's position would quit work under these circumstances. Claimant had well-founded moral and reputational objections to releasing unsafe food, and was concerned about legal liability. The employer had released moldy cooked product while claimant was previously on leave, and all indications were that the employer would do so again, as some of the mushroom prep with mold had already been used to make cooked product that morning, and the CEO repeatedly signaled his intent to continue the production process with materials kept at 57 degrees for days and either scrape mold off the materials or use materials without visible mold.

No reasonable alternatives to leaving work were available to claimant. Waiting to see what decision the CEO would make or continuing to pursue efforts to convince him to discard the materials kept at 57 degrees for days would have been futile. The employer had not been responsive regarding customer complaints of moldy cooked product released while claimant had been on leave. As of when claimant quit, the CEO had repeatedly signaled his intent to continue the production process with materials kept at 57 degrees for days and either scrape mold off the materials or use materials without visible mold. And, in claimant's final meeting with the CEO, the CEO mentioned the financial difficulty that would result in discarding the materials, further suggesting a reluctance to dispose of the materials. Indeed,

although after claimant's resignation the employer consulted with a food scientist and discarded most of the materials that had been kept at 57 degrees, some of the cooked product made on October 20, 2025 from prep that had mold was released for sale.<sup>2</sup> Accordingly, engaging in further efforts to persuade the CEO to discard the mushroom materials kept at 57 degrees would not have been fruitful.

Similarly, given the employer's history of lacking responsiveness to customer complaints of moldy cooked product and general reluctance to discard the compromised materials on October 20, 2025, the record supports the inference that had claimant directed a complaint to a food safety regulatory agency, the employer would not have taken immediate action to dispose of the materials. Instead, claimant likely would have had to wait an indefinite period of time for the food safety issue to be investigated and the employer to comply with any regulatory directives resulting from the investigation. Remaining employed and waiting an indefinite period of time while a regulatory agency investigated the food safety issue was not a reasonable alternative to leaving work. *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 these reasons, claimant was presented with a situation of such gravity that he had no reasonable alternative but to leave work when he did. Claimant therefore voluntarily left work with good cause, and is not disqualified from receiving unemployment insurance benefits based on the work separation.

**DECISION:** Order No. 26-UI-319766 is set aside, as outlined above.

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

**DATE of Service:** April 1, 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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<sup>2</sup> Though, at hearing, the CEO testified that this cooked product was not "actually shipped . . . until [the employer] got a full picture," the CEO did not rebut claimant's testimony that the employer did eventually release for sale the cooked product that was made on October 20, 2025 from prep that had visible mold. *See* Transcript at 31, 21-22.



# 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 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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