

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0171

*Orders No. 25-UI-306735 and 26-UI-316039 Affirmed
Employer's Request to Reopen the June 20, 2025 Hearing Allowed
Claimant's Request to Reopen the September 30, 2025 Hearing Denied
Disqualification*

PROCEDURAL HISTORY: On March 17, 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 # L0009737529). The employer filed a timely request for hearing. On June 5, 2025, notice was mailed to the parties that a hearing was scheduled for June 20, 2025. On June 20, 2025, the employer failed to appear for the hearing, and ALJ Bender issued Order No. 25-UI-295451, dismissing the request for hearing due to the employer's failure to appear. On June 23, 2025, the employer filed a timely request to reopen the June 20, 2025 hearing.

On September 17, 2025, notice was mailed to the parties that a hearing was scheduled for September 30, 2025 to determine whether the employer's request to reopen should be allowed and, if so, the merits of decision # L0009737529. On September 30, 2025, ALJ Micheletti conducted a hearing at which claimant failed to appear, and on October 9, 2025 issued Order No. 25-UI-306735, cancelling Order No. 25-UI-295451, allowing the employer's request to reopen the June 20, 2025 hearing, and reversing decision # L0009737529 by concluding that claimant quit work without good cause and was therefore disqualified from receiving benefits effective February 9, 2025. On October 14, 2025, claimant filed an application for review of Order No. 25-UI-306735 with the Employment Appeals Board (EAB) that, by rule, was treated as a request to reopen the September 30, 2025 hearing.¹

On January 2, 2026, ALJ Naylor conducted a hearing, and on January 5, 2026 issued Order No. 26-UI-316039, denying claimant's request to reopen the September 30, 2025 hearing and leaving Order No. 25-UI-306735 undisturbed. On January 21, 2026, claimant filed an application for review of Order No. 26-UI-316039. Additionally, under OAR 471-040-0040(6), claimant's October 14, 2025 application for review of Order No. 25-UI-306735 was returned to EAB for a decision on the merits following denial of

¹ See OAR 471-040-0040(6) (February 10, 2012).

his request to reopen the September 30, 2025 hearing. These matters come before EAB based on claimant's applications for review of Orders No. 25-UI-306735 and 26-UI-316039.

EAB combined its review of Orders No. 25-UI-306735 and 26-UI-316039 under OAR 471-041-0095 (October 29, 2006). For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2026-EAB-0171 and 2026-EAB-0080).

WRITTEN ARGUMENT: The employer's argument contained information that was not part of the hearing record and did not show that factors or circumstances beyond the employer's reasonable control prevented them 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 the employer's argument that were based on the hearing record.

FINDINGS OF FACT: (1) Gluten Free Gem, LLC employed claimant as a baker from January 22, 2025 through February 15, 2025.

(2) On February 13, 2025, claimant was scheduled to work but emailed the employer stating that his wrists and elbows were "a little sore" and asking for the day off, which the employer granted. September 30, 2025 Audio Record at 11:20.²

(3) On February 14, 2025, claimant was not scheduled to work but came to the employer's facility to pick up his paycheck. At that time, claimant told his supervisor that he was feeling "much better" and would be at work the next day. September 30, 2025 Audio Record at 12:02.

(4) On February 15, 2025, claimant was absent from the start of his shift at noon. A supervisor texted claimant asking why he was not at work, and he responded that he was "digging out of a snowbank" but would be at work "soon." September 30, 2025 Audio Record at 12:27. At 1:15 p.m., claimant emailed the supervisor, "I still don't feel good . . . I'm sorry for late notice. My elbow is numb and tingling. I'm apprehensive about injuring it more. I know it's too late to call out but I think I have to. I am sorry." September 30, 2025 Audio Record at 12:44. At 4:00 p.m., claimant emailed the supervisor, "I don't think this is a good job for me, so this is my notice. I would normally give two weeks but I don't want to hurt myself." September 30, 2025 Audio Record at 13:10. Claimant did not work for the employer thereafter.

(5) Had claimant requested further time off, or ergonomic equipment, the employer would have accommodated such requests, either through or independent of a workers' compensation claim.

(6) On June 5, 2025, notice of a hearing scheduled for June 20, 2025 was mailed to the employer's address on file with the Office of Administrative hearings (OAH). The employer did not receive the notice and was unaware that the hearing was being held that day. The employer therefore did not appear at the hearing.

² The employer's witness later suggested that this complaint also involved one or both of claimant's shoulders. See September 30, 2025 Audio Record at 17:04.

(7) On June 23, 2025, the employer received Order No. 25-UI-295451, which had been mailed on June 20, 2025, and learned that their request for hearing was dismissed because they had failed to appear at the June 20, 2025 hearing. The employer filed a request to reopen the hearing on June 23, 2025.

(8) On September 17, 2025, notice of a hearing scheduled for September 30, 2025 at noon was mailed to claimant's address on file with OAH. Claimant received the notice prior to the hearing. At the time, claimant was employed as a courier, and was scheduled to work on September 30, 2025 until 1:30 p.m. Claimant hoped that he would complete his work early that day so that he could attend the hearing at noon, but did not make arrangements with his employer to take time off for the hearing, or request that OAH reschedule the hearing for a time when he was not scheduled to work. Claimant did not appear for the hearing at noon because he had not finished his morning shift work.

(9) On October 9, 2025, Order No. 25-UI-306735 was mailed to the parties. On October 19, 2025, claimant filed a request to reopen the September 30, 2025 hearing.

CONCLUSIONS AND REASONS: The employer's request to reopen the June 20, 2025 hearing is allowed. Claimant's request to reopen the September 30, 2025 hearing is denied. Claimant voluntarily quit work without good cause.

Employer's Request to Reopen the June 20, 2025 Hearing. ORS 657.270(5) states that any party who failed to appear at a hearing may request to reopen the hearing, and the request will be allowed if it was filed within 20 days of the date the hearing decision was issued and shows good cause for failing to appear. "Good cause" exists when the requesting party's failure to appear at the hearing arose from an excusable mistake or from factors beyond the party's reasonable control. OAR 471-040-0040(2). The party requesting reopening must state the reason(s) for missing the hearing in a written statement, which OAH shall consider in determining whether good cause exists for failing to appear at the hearing. OAR 471-040-0040(3).

The employer's request to reopen the June 20, 2025 hearing was filed within 20 days of the date Order No. 25-UI-295451 was mailed, and contained a statement explaining why they missed the hearing. The request therefore met threshold requirements for consideration.

The employer's witness testified that on June 18, 2025, she spoke with a Department representative by telephone regarding the status of their appeal and was told to await the mailed notice of hearing, which the employer had not yet received. September 30, 2025 Audio Record at 5:35. The witness further testified that the Department representative said they could not provide her with the date and time of the hearing during the call due to "computer problems." September 30, 2025 Audio Record at 7:00. The employer did not receive the mailed notice of hearing for reasons unknown to them, and was unaware that the hearing had occurred until June 23, 2025, when they received Order No. 25-UI-295451. Under these circumstances, the employer's failure to receive mailed notice of the June 20, 2025 hearing was a factor beyond their reasonable control that prevented them from attending the hearing. The employer has therefore shown good cause to reopen the June 20, 2025 hearing, and their request to reopen is allowed.

Claimant's Request to Reopen the September 30, 2025 Hearing. Claimant's request to reopen the September 30, 2025 hearing was filed within 20 days of the date Order No. 25-UI-306735 was mailed,

and contained a statement explaining why he missed the hearing. The request therefore met threshold requirements for consideration.

Claimant missed the noon hearing because he was working as a courier that day. Claimant testified that he was scheduled to work a morning shift until 1:30 p.m., but hoped by working quickly he could finish his work before noon in order to participate in the hearing. January 2, 2026 Audio Record at 17:08. Claimant testified that he could have requested time off to participate in the hearing after learning it was scheduled but did not do so, and made no request to OAH to postpone the hearing to a time when he was not scheduled to work. January 2, 2026 Audio Record at 15:16, 18:07. It was within claimant's reasonable control to take either of these steps to allow for his participation in the hearing.

Furthermore, while claimant was mistaken about his ability to manage his workload such that he could finish his shift 90 minutes early to participate in the hearing, this was not an "excusable mistake" within the meaning of the administrative rules because it did not, for example, raise a due process issue, and was not the result of inadequate notice, reasonable reliance on another, or the inability to follow directions despite substantial efforts to comply. Accordingly, claimant has not shown good cause to reopen the September 30, 2025 hearing, and his request to reopen is denied.

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 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 quit work due to concerns about his health. Claimant was absent from work on February 13, 2025, and told the employer it was due to soreness in his wrists, elbows, and shoulders. However, he told the employer the next day, a scheduled day off, that the symptoms had resolved and he was ready to return to work. On February 15, 2025, claimant was absent for the start of his shift and did not notify the employer that he would be late or absent. Claimant later gave the employer differing reasons for his absence, at one point mentioning "numb[ness] and tingling" in an elbow, and ultimately quit work hours later, asserting that he was unwilling to work a notice period because he did not "want to hurt [him]self." September 30, 2025 Audio Record at 12:55, 13:20. Without professional diagnosis or treatment, experiencing these intermittent symptoms over the course of three days would not cause a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, to leave work. As such, claimant did not face a grave situation.

Moreover, even if the situation had been grave, claimant had reasonable alternatives to leaving. The employer's witness suggested that while claimant had not worked for the employer long enough to qualify for protected leave, they would likely have accommodated a request for medical leave, and would have provided ergonomic equipment to alleviate stress on joints if requested. September 30, 2025 Audio Record at 14:03, 16:40. Further, if claimant believed that his symptoms were the result of a work-related injury, he could have sought treatment, time off, or work modifications through the workers' compensation process. Therefore, claimant had reasonable alternatives to quitting work when he did, but

did not explore these alternatives. Accordingly, claimant did not quit work for a reason of such gravity that he had no reasonable alternative but to leave work, and therefore quit without good cause.

For these reasons, claimant voluntarily quit work without good cause and is therefore disqualified from receiving employment insurance benefits effective February 9, 2025.

DECISION: Orders No. 25-UI-306735 and 26-UI-316039 are affirmed.

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

DATE of Service: March 3, 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.

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.

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 Email: appealsboard@employ.oregon.gov
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