

**EMPLOYMENT APPEALS BOARD DECISION**  
**2026-EAB-0242**

*Affirmed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On October 31, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged for misconduct and was therefore disqualified from receiving unemployment insurance benefits effective September 21, 2025 (decision # L0013814368).<sup>1</sup> Claimant filed a timely request for hearing. On February 18, 2026, ALJ Frank conducted a hearing, and on February 26, 2026 issued Order No. 26-UI-321579, reversing decision # L0013814368 by concluding that claimant was discharged, but not for misconduct, and was not disqualified from receiving benefits based on the work separation. On March 12, 2026, the employer filed an application for review with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** EAB did not consider the employer's written argument because they did not state that they provided a copy of their argument to claimant as required by OAR 471-041-0080(2)(a) (May 13, 2019).

**FINDINGS OF FACT:** (1) Cash Connection Grants Pass, Inc. employed claimant from November 25, 2024 through September 24, 2025. For most of her employment, claimant worked full-time in online sales.

(2) The employer had a written attendance policy that provided, in relevant part, that an employee must contact their supervisor prior to the scheduled start of their shift if they will be tardy or absent, and that an employee may not miss more than 16 hours of work beyond what could be covered through use of their accrued leave balance. Claimant was provided with a copy of this policy at hire.

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<sup>1</sup> Decision # L0013814368 stated that claimant was denied benefits from September 28, 2025 to October 3, 2026. However, as decision # L0013814368 stated that the work separation occurred on September 24, 2025, it should have stated that claimant was disqualified from receiving benefits beginning Sunday, September 21, 2025, and until she earned four times her weekly benefit amount. *See* ORS 657.176.

(3) Through September 15, 2025, claimant had missed 11.66 hours of work after exhausting her accrued leave balance.

(4) On September 17, 2025, claimant was late for work but notified her supervisor in advance that she would be tardy. Claimant had been tardy on two other occasions earlier that month.

(5) Beginning September 18, 2025, claimant's work schedule and job duties were adjusted by agreement with her supervisor, such that claimant worked a part-time schedule of four days per week and performed "physical labor" throughout the workday. Transcript at 20.

(6) On September 23, 2025, claimant was scheduled to begin work at 8:15 a.m. Claimant overslept due to feeling "depressed" and "completely exhausted" from the performance of physical labor at work. Transcript at 8, 15. At 11:40 a.m., claimant awoke and texted her supervisor that she overslept and would therefore not be coming to work that day. When accounting for this absence, claimant had missed more than 16 hours of work beyond what could be covered through her accrued leave balance.

(7) On September 24, 2025, the employer discharged claimant because the amount of work hours missed exceeded her accrued leave balance by more than 16 hours. The employer would have discharged claimant at that time for that reason regardless of whether she had timely notified her supervisor that she would be absent from work on September 23, 2025.

**CONCLUSIONS AND REASONS:** Claimant was discharged, but not for misconduct.

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) (September 22, 2020). "[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." OAR 471-030-0038(1)(c). In a discharge case, the employer has the burden to establish misconduct by a preponderance of evidence. *Babcock v. Employment Division*, 25 Or App 661, 550 P2d 1233 (1976). Isolated instances of poor judgment, good faith errors, unavoidable accidents, absences due to illness or other physical or mental disabilities, or mere inefficiency resulting from lack of job skills or experience are not misconduct. OAR 471-030-0038(3)(b).

The employer discharged claimant for violating their attendance policy. The discharge analysis initially focuses on the proximate cause of the discharge, which is generally the last incident of misconduct before the discharge. *See, e.g., Appeals Board Decision 12-AB-0434*, March 16, 2012. The last occurrence of an attendance policy violation is considered the reason for the discharge. *See generally* June 27, 2005 Letter to the Employment Appeals Board from Tom Byerley, Assistant Director, Unemployment Insurance Division. Therefore, the initial focus of the analysis is on claimant's absence from work on September 23, 2025.

The record shows that on September 23, 2025, claimant was scheduled to begin work at 8:15 a.m., and at 11:40 a.m. texted her supervisor that she would not be at work, referencing being “depressed” and having “slept in.” Transcript at 8. Claimant testified that despite having gone to bed at 8:00 p.m. the previous night, she slept past the times she was supposed to awaken, take her children to school, and report for work. Transcript at 16-17. Claimant further testified that she attributed having overslept more than four hours past her planned 7:00 a.m. wakeup time to feeling “depressed” and “completely exhausted” from the performance of physical labor at work following the recent change in her job duties. Transcript at 8, 15.

The employer did not rebut claimant’s testimony regarding why she had missed work that day and failed to report that she would be absent prior to the start of her shift. As such, the employer has not met their burden of showing that claimant’s absence and failure to provide timely notice on this occasion was willful, or the result of a conscious decision made with indifference to the consequences of her actions. Therefore, the record shows that claimant’s violation of the attendance policy resulted from no more than ordinary negligence. Accordingly, because the last violation of the employer’s attendance policy was not shown to be willful or wantonly negligent, claimant’s discharge was not for misconduct.

For these reasons, claimant was discharged, but not for misconduct, and is not disqualified from receiving unemployment insurance benefits based on the work separation.

**DECISION:** Order No. 26-UI-321579 is affirmed.

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

**DATE of Service:** April 22, 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 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.

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