

**EMPLOYMENT APPEALS BOARD DECISION**  
**2026-EAB-0330**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On February 17, 2026, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged by the employer, but not for misconduct, and was not disqualified from receiving benefits based on the discharge (decision # L0016114819). The employer filed a timely request for hearing. On April 1, 2026, ALJ Adamson conducted a hearing, and on April 3, 2026 issued Order No. 26-UI-325946, reversing decision # L0016114819 by concluding that claimant was discharged for misconduct and was disqualified from receiving benefits effective December 14, 2025. On April 7, 2026, claimant filed an application for review with the Employment Appeals Board (EAB).

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

**FINDINGS OF FACT:** (1) Jackson County, Oregon employed claimant as a qualified mental health associate at one of their crisis centers from January 2, 2024 until December 18, 2025.

(2) The employer expected employees to arrive for their shifts on time, to notify their supervisors in advance if they were going to be late for a shift, and refrain from taking personal calls during work time. Claimant received and acknowledged these policies. The employer also expected employees to refrain from allowing unauthorized individuals to access the secured areas of the employer's facility and to safeguard health information protected under the Health Insurance Portability and Accountability Act (HIPAA), which were kept in those areas, from potentially being accessed by unauthorized individuals. Claimant received trainings on these policies in February and May 2025. The employer also prohibited employees from using the employer's office equipment or supplies for their personal use. Claimant received and was trained on this policy at the time she was hired.

(3) At various points prior to May 21, 2025, including October 10, 2024 and January 17, 2025, claimant received coaching on various aspects of the employer's workplace policies in response to concerns about claimant's conduct raised by other employees.

(4) On May 21, 2025, claimant took a leave of absence due to a health condition relating to surgery she had undergone.

(5) On June 10, 2025, while claimant was on leave, she went to the employer's facility and used their printer to print a housing listing for herself. On June 15, 2025, while claimant was on leave, she went to the employer's facility and used their printer to print 66 pages of materials for herself, including a resident screening summary.

(6) On September 9, 2025, claimant returned to work from her leave of absence. On September 22, 2025, claimant was late for her scheduled shift. That day, claimant's supervisor informed her by text message that claimant "needed in the future to let [the employer] know ahead of time" if claimant was going to be late for her shift's scheduled start time. Transcript at 8.

(7) On September 25, 2025, the employer met with claimant to discuss the employer's policies regarding "breaks and working hours," among others, and that employees should take personal calls only during breaks. Transcript at 8. On September 30, 2025, the employer sent claimant an email summarizing the September 25, 2025 meeting, and claimant acknowledged having received the summary email.

(8) The employer's facility had a secured area that employees had to badge into to access, which included a resting room for clients having mental health crises. The offices of employees were also located in the secured area. The employee offices contained private client health information, protected under HIPAA, and it was possible for unauthorized persons to access such information, or overhear it discussed by phone, if they were granted access to the secured area.

(9) On October 23, 2025, claimant brought some of her young children into the secured area. While there, the children spent some time in claimant's office, but also ran up and down the hallways and opened some employee office doors while employees were on the phone, speaking with clients.

(10) On October 27, 2025, claimant was scheduled to begin work at 8:00 a.m. That day, claimant clocked in at 8:31 a.m., without notice to her supervisor that she would be late. However, claimant did not begin working at that time but instead took a personal call outside the employer's facility. A little after 9:00 a.m., claimant's supervisor went to claimant's office because she needed to assign a walk-in client to claimant, but claimant was not there. The supervisor texted claimant, and at 9:16 a.m., claimant entered the employer's facility ready to begin work. At that time, the employer placed claimant on administrative leave and began an investigation into claimant's workplace conduct. The employer conducted a comprehensive review of claimant's workplace conduct, which included holding a meeting with claimant on November 17, 2025.

(11) The employer completed their investigation and, on December 15, 2025 held a pre-disciplinary meeting with claimant. At that time, the employer presented claimant with a letter that detailed numerous instances in which the employer asserted claimant to have violated a range of workplace expectations, including: arriving late to work without notice; making personal calls during work time;

misrepresenting time worked and working unauthorized overtime; personal use of county materials; allowing non-employees to access the secured area of the employer's facility; dress code violations; and dishonesty during the employer's investigatory meeting with claimant on November 17, 2025. *See* Exhibit 1 at 3-15.

(12) On December 18, 2025, the employer presented claimant with a determination letter which found that the policy violations outlined in the December 15, 2025 letter were sustained and concluded that discharging claimant was warranted. *See* Exhibit 1 at 16-17. The employer discharged claimant that day.

**CONCLUSIONS AND REASONS:** The employer discharged claimant for misconduct connected with work.

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 are not misconduct. OAR 471-030-0038(3)(b). To be isolated, an instance of poor judgment must be a single or infrequent occurrence rather than a repeated act or pattern of other willful or wantonly negligent behavior. OAR 471-030-0038(1)(d)(A). However, acts that violate the law, that are tantamount to unlawful conduct, or that create irreparable breaches of trust in the employment relationship or otherwise make a continued employment relationship impossible exceed mere poor judgment and do not fall within the exculpatory provisions of OAR 471-030-0038(3). OAR 471-030-0038(1)(d)(D).

The employer discharged claimant for numerous policy violations outlined in their December 15, 2025 pre-disciplinary letter. Central to these was the occasion on October 27, 2025 in which claimant arrived late to work without notice and made personal calls during work time. That incident prompted the employer to place claimant on administrative leave and begin the investigation of claimant's workplace conduct, which ultimately gave rise to the December 15, 2025 letter and claimant's discharge on December 18, 2025. As the October 27, 2025 incident triggered the employer's investigation and was cited, among other policy violations, as the reason for claimant's discharge,<sup>1</sup> it is appropriate to view the October 27, 2025 incident as the proximate cause of the discharge. *See e.g. Appeals Board Decision 12-AB-0434*, March 16, 2012 (discharge analysis focuses on proximate cause of the discharge, which is generally the last incident of misconduct before the discharge); *Appeals Board Decision 09-AB-1767*, June 29, 2009 (discharge analysis focuses on proximate cause of discharge, which is the incident without which the discharge would not have occurred when it did).

---

<sup>1</sup> *See* Exhibit 1 at 6, 16.

The employer met their burden to prove that the October 27, 2025 incident was a wantonly negligent violation of their expectations. Claimant was on notice that arriving late to work without notifying the employer in advance and making personal calls during work time would violate the employer's expectations. This is so because claimant had acknowledged receipt of that policy; had received a warning for substantially similar conduct on September 22, 2025; and was again reminded of the prohibition on taking personal calls during work time in the meeting on September 25, 2025. While claimant made a vague reference at hearing to the personal call being necessitated by being in a "duress situation," that reference was made without specificity or any supporting detail. Transcript at 22. As such, the employer met their burden to prove that claimant's late arrival without notice and personal call during work time were done consciously and with indifference to the consequences of her actions, when claimant knew or should have known that her actions in those respects would probably result in a violation of the employer's standards of behavior. Claimant therefore violated the employer's expectations with wanton negligence on October 27, 2025.

Claimant's wantonly negligent conduct was not an isolated instance of poor judgment because it was not isolated. The employer offered evidence of claimant having violated numerous workplace expectations on many occasions prior to October 27, 2025. Of these, the record shows, at minimum, that claimant's bringing of her children into the employer secured area on October 23, 2025 and using office equipment for her personal use on June 10 and 15, 2025 were wantonly negligent violations of the employer's expectations. These prior incidents of wantonly negligent conduct are sufficient to conclude that claimant's conduct on October 27, 2025 was not isolated, and therefore that the isolated instance of poor judgment concept does not apply to claimant's circumstances.

First, on October 23, 2025, claimant brought some of her young children into the employer's secured area, which was used as a crisis area for clients and was also where employee offices were located. The children spent some time in claimant's office, but also ran down hallways and opened office doors while employees were on the phone speaking with clients. Claimant understood the employer's prohibition on allowing unauthorized individuals into the secured area, as she received trainings on these policies in February and May 2025. Further, at hearing, claimant acknowledged being "constantly" up-to-date on HIPAA trainings relating to safeguarding private client health information, such as that which was potentially compromised when her children opened employee office doors while phone conversations with clients were taking place. Transcript at 20. Thus, claimant knew or should have known that by bringing the children into the secured area, a violation of the employer's expectations would probably result. She brought the children into the secured area consciously, and the weight of the evidence favors that she did so with indifference to the consequences, because, although claimant stated that she brought her children into the secured area "[d]ue to an emergency," she offered no detail or context for that assertion. Transcript at 21. Claimant therefore violated the employer's expectations with wanton negligence on October 23, 2025.

Next, on June 10 and 15, 2025, while claimant was on protected leave, she used the employer's printer to print materials for her personal use, in violation of the employer's expectations. At hearing, claimant asserted that the materials she printed were all work related, but failed to explain how that could be so while she was on leave and not seeing clients; and then conceded that one of the documents among the 66 pages she printed on June 15, 2025 was not related to work. Transcript at 23-25. Given that claimant received the policy related to the employer's prohibition on using their office equipment or supplies for personal use at hire, and was trained on the policy at that time, claimant acted consciously on those

occasions and violated a known expectation with indifference. Claimant therefore violated the employer's expectations with wanton negligence on June 10 and 15, 2025.

Thus, claimant's wantonly negligent violation of the employer's expectations on October 27, 2025 was not an isolated instance of poor judgment. The employer therefore discharged claimant for misconduct, and claimant is disqualified from receiving benefits effective December 14, 2025.

**DECISION:** Order No. 26-UI-325946 is affirmed.

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

**DATE of Service:** May 19, 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.

**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  
 Email: [appealsboard@employ.oregon.gov](mailto:appealsboard@employ.oregon.gov)  
 Website: [www.Oregon.gov/employ/pages/employment-appeals-board.aspx](http://www.Oregon.gov/employ/pages/employment-appeals-board.aspx)

The Oregon Employment Department is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Language assistance is available to persons with limited English proficiency at no cost.

El Departamento de Empleo de Oregon es un programa que respeta la igualdad de oportunidades. Disponemos de servicios o ayudas auxiliares, formatos alternos y asistencia de idiomas para personas con discapacidades o conocimiento limitado del inglés, a pedido y sin costo.