

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0335

Reversed & Remanded

PROCEDURAL HISTORY: On February 19, 2026, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer with good cause and was not disqualified from receiving benefits based on the quit (decision # L0016143996). The employer filed a timely request for hearing. On March 26, 2026, ALJ Hall conducted a hearing, and on April 3, 2026 issued Order No. 26-UI-326061, reversing decision # L0016143996 by concluding that claimant quit without good cause and was disqualified from receiving benefits effective January 4, 2026. On April 8, 2026, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Evelyn & Ronald Anderson, DBA Alice's Country House, employed claimant as a dishwasher at their restaurant from July 2022 through January 10, 2026.

(2) Claimant typically worked between 20 and 35 hours per week for the employer and was paid \$15.50 per hour by the end of her employment.

(3) At some point in or prior to January 2026, claimant received an offer of work from a caregiving agency. That work was to pay \$21 per hour, for approximately 28 hours per week. Claimant accepted the offer and gave the employer two weeks' notice that she would be quitting on January 10, 2026. Claimant expected the new job to continue indefinitely.

(4) On January 10, 2026, claimant quit working for the employer as planned.

(5) Claimant ultimately worked for the caregiving agency for approximately 30 days, at which point she was discharged because she failed a background check.

(6) Claimant's weekly benefit amount was \$204.

CONCLUSIONS AND REASONS: Order No. 26-UI-326061 is set aside and this matter remanded for further development of the record.

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).

A claimant who leaves work to accept an offer of other work “has left work with good cause only if the offer is definite and the work is to begin in the shortest length of time as can be deemed reasonable under the individual circumstances. Furthermore, the offered work must reasonably be expected to continue, and must pay [either] an amount equal to or in excess of the weekly benefit amount; or an amount greater than the work left.” OAR 471-030-0038(5)(a).

Claimant voluntarily quit working for the employer because she had received an offer of other work. The order under review concluded that claimant quit without good cause because the offer of new work was “contingent on a background check,” and therefore was not a definite offer. Order No. 26-UI-326061 at 3. The record as developed does not support this conclusion.

As a preliminary matter, Department records suggest that claimant may have started working for the caregiving agency while still working for the employer, and that she likewise may have been discharged from the caregiving agency before her last day of work for the employer.¹ The hearing record contains no clear account of this, as the timeline was not sufficiently developed to determine either when claimant started working for the caregiving agency, or when it discharged her. However, at hearing, the employer’s witness testified that she had hired a replacement for claimant “within the second week” of claimant’s notice period; and that when claimant subsequently “came back and asked for her job back,” the employer was not able to give claimant her job back because a replacement had already been hired. Transcript at 21. It is not clear from this testimony whether claimant “asked for her job back” after she had already separated from the employer, or whether she instead essentially asked for a rescission of her resignation notice while she was still working for the employer.

On remand, the ALJ should clarify the record so as to show when claimant started working for the caregiving agency, when she was discharged, and when she asked the employer “for her job back.” If the record on remand shows that claimant in fact gave her notice to the employer while working at both the restaurant and the caregiving agency, the ALJ should determine if claimant actually quit work to accept an offer of other work, per OAR 471-030-0038(5)(a); or whether she instead quit work because she did not wish to work two jobs, in which case the “standard” gravity analysis under OAR 471-030-0038(4) would apply.

¹ EAB has taken notice of these facts, which are contained in Employment Department records. OAR 471-041-0090(1) (May 13, 2019). Any party that objects to EAB taking notice of this information must send their objection to EAB in writing, stating why they object, within ten days of EAB mailing this decision. OAR 471-041-0090(2). Unless EAB receives and agrees with the objection, the noticed facts will remain in the record.

If the record on remand does show that claimant quit to accept an offer of other work, however, the record was not adequately developed to determine whether two of the four factors under OAR 471-030-0038(5)(a) apply to claimant's circumstances. The record shows that the work was reasonably expected to continue, and that it paid more than both claimant's position with the employer and claimant's weekly benefit amount. However, the record as developed is insufficient to show whether the offered work was to begin in the shortest length of time reasonable under the circumstances. The order under review found that "[o]n or around February 10, 2026, [the caregiving agency] rescinded claimant's offer of work and discharged her from its employment" due to the background check issue. Order No. 26-UI-326061 at 2. This finding is not supported by substantial evidence.

The record shows only that claimant quit working for the employer on January 10, 2026, and that claimant worked for the caregiving agency for 30 days before being discharged. The February 10, 2026 date does not appear in the record, and, as noted above, claimant never testified as to when she began working for the caregiving agency. To the extent that the record on remand shows that claimant began working for the caregiving agency after she quit working for the employer, but not *immediately* after, the ALJ should inquire as to what caused that delay, so as to determine whether claimant began working for the caregiving agency within the shortest period of time reasonable under the circumstances.

Further development of the record is also necessary to determine whether the offer of other work was definite. At hearing, the ALJ asked claimant, apparently to determine whether the offer was definite, "[W]hen you accepted the job with [the caregiving agency] were there any... conditions on your continued employment?" Transcript at 9. Claimant responded with testimony indicating that her *continued* employment with the caregiving agency was dependent upon a successful background check. Transcript at 9–10. Based on this testimony, and the fact that the caregiving agency ultimately discharged claimant based on the results of the background check, the order under review concluded that the offer of work was not definite. Order No. 26-UI-326061 at 3. However, whether an offer is definite does not depend on whether any conditions exist that would prevent the new work from continuing *after* the individual has already started working for the new employer.

The Department's guidance on its interpretation of the "definite offer" provision states, in relevant part:

Offers of work are not definite if they are contingent upon anything. This can include a contingency on passing a drug test, background check, credit check and/or an employer receiving a contract.

Oregon Employment Department Unemployment Insurance Policy Guide (January 2026) at 109. Thus, the relevant inquiries on this point are whether any contingencies existed that claimant was required to resolve *prior* to starting work for the caregiving agency; and if so, whether those contingencies remained pending at the time that she quit working for the employer. On remand, the ALJ should inquire as to when claimant received the job offer; what conditions, such as a drug test or background check, if any claimant was required to complete *before* she began working for the caregiving agency; and when, if at all, claimant completed those requirements. The ALJ should note that any employment requirements that claimant was required to complete *after* beginning work with the caregiving agency are not considered contingencies for these purposes.

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 quit work with good cause, Order No. 26-UI-326061 is reversed and this matter remanded to the Office of Administrative Hearings for another hearing and order.

DECISION: Order No. 26-UI-326061 is set aside, and this matter remanded for further proceedings consistent with this order.

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

DATE of Service: May 20, 2026

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 26-UI-326061 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.

