

**EMPLOYMENT APPEALS BOARD DECISION**  
**2026-EAB-0345**

*Reversed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On March 12, 2026, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause and was disqualified from receiving benefits effective January 18, 2026 (decision # L0016400158).<sup>1</sup> Claimant filed a timely request for hearing. On April 7, 2026, ALJ Janzen conducted a hearing, and on April 8, 2026 issued Order No. 26-UI-326413, affirming decision # L0016400158. On April 10, 2026, claimant filed an application for review with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** Claimant submitted written arguments on April 10, and April 15, 2026. EAB considered claimant's April 10, 2025 argument in reaching this decision. Claimant's April 15, 2026 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 claimant 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 April 15, 2026 argument that were based on the hearing record.

**FINDINGS OF FACT:** (1) Builder Services Group, Inc. employed claimant full time as a building insulation sales consultant from July 2015 through January 23, 2026. Part of claimant's work involved "building science," such as conducting energy audits, that was unrelated to sales. Transcript at 17.

(2) Through 2025, claimant was paid a base salary, plus commission at a rate of approximately four percent of sales. Claimant's annual pay for 2022 through 2025 was \$84,145.398, \$91,763.60,

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<sup>1</sup> Decision # L0016400158 stated that claimant was denied benefits from January 18, 2026 to January 16, 2027. However, decision # L0016400158 should have stated that claimant was disqualified from receiving benefits beginning January 18, 2026, and until he earned four times his weekly benefit amount. See ORS 657.176.

\$83,177.67, and \$93,178.17, respectively. Claimant's earnings from commissions for those years were \$17,313.79, \$24,890.72, \$16,217.19, and \$25,919.56, respectively.

(3) By mid-2025, the employer was dissatisfied with claimant's performance, particularly his sales. Claimant was placed on a performance improvement plan (PIP) under which he was originally expected to achieve \$88,000 per month in sales. Claimant "was making some progress" toward improving his sales numbers, but did not reach that level, and the goal was eventually lowered to approximately \$50,000 per month, which claimant was able to meet by the end of the year. Transcript at 15.

(4) By January 2026, the employer remained dissatisfied with claimant's performance despite his having met the lowered sales goals, and his having had a higher sales volume in 2025 than in any other year. On January 23, 2026, the employer told claimant that they would no longer pay his base salary, and that he would only earn commissions at the same rate going forward. Claimant would also no longer have use of an employer-provided vehicle, but would be reimbursed for the work use of his own vehicle. Claimant immediately quit work due to this change in compensation, and did not work for the employer after January 23, 2026.

(5) Claimant did not consider continuing to work for the employer for even for a brief period of time to see what his earnings would be following the compensation change because "it was going to be too much of a toxic atmosphere and just too much of a slap in the face to continue working there for such a low rate of pay." Transcript at 11.

(6) In January 2026, the standard minimum wage in Oregon was \$15.05 per hour, while the minimum wages for the Portland metro area and non-urban areas were \$16.30 and \$14.05 per hour, respectively.<sup>2</sup> On a monthly basis, a full-time employee paid the standard minimum wage would earn \$2,608.66 in wages.<sup>3</sup>

**CONCLUSIONS AND REASONS:** Claimant quit 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).

A claimant who leaves work due to a reduction in pay has left work without good cause unless "the newly reduced rate of pay is ten percent or more below the median rate of pay for similar work in the individual's normal labor market area. The median rate of pay in the individual's labor market shall be

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<sup>2</sup> EAB has taken notice of this fact, which is a generally knowable fact. 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 fact will remain in the record.

<sup>3</sup>  $(\$15.05 \times 40 \text{ hours} \times 52 \text{ weeks}) / 12 \text{ months} = \$2,608.66$ .

determined by employees of the Employment Department adjudicating office using available research data compiled by the department.” OAR 471-030-0038(5)(d).

\* \* \*

(A) This section applies only when the employer reduces the rate of pay for the position the individual holds. It does not apply when an employee’s earnings are reduced as a result of transfer, demotion or reassignment.

(B) An employer does not reduce the rate of pay for an employee by changing or eliminating guaranteed minimum earnings, by reducing the percentage paid on commission, or by altering the calculation method of the commission.

(C) An employer does not reduce the rate of pay by loss or reduction of fringe benefits.

(D) If the Employment Department cannot determine the median rate of pay, the provisions of OAR 471-030-0038(4) apply.

OAR 471-030-0038(5)(d).

Claimant quit work due to a change in compensation, particularly the elimination of his base salary. Claimant asserted that the base salary was not “guaranteed minimum earnings” within the meaning of OAR 471-030-0038(5)(d)(B), and that the “reduction in pay” analysis of OAR 471-030-0038(5)(d) should therefore apply. *See, e.g.*, Claimant’s April 10, 2026 Written Argument at 1. However, the salary was tantamount to guaranteed minimum earnings, as claimant would have been entitled to the full salary payment in a month in which he made no sales. Accordingly, OAR 471-030-0038(5)(d) is inapplicable because that provision only applies when a claimant leaves work “due to a reduction in pay” within the meaning of the rule, and by eliminating claimant’s salary the employer eliminated guaranteed minimum earnings, which, per OAR 471-030-0038(5)(d)(B), does not constitute a reduction in the rate of pay within the meaning of the rule. Therefore, the standard “good cause” analysis applies.

The order under review, applying the standard good cause analysis, concluded that claimant did not face a situation of such gravity that he had no reasonable alternative but to leave work. Order No. 26-UI-326413 at 3. However, the record does not support this conclusion.

Claimant achieved the highest level of annual sales during his ten-year tenure with the employer in 2025. During that year, claimant earned \$25,919.56 in commissions, an average of \$2,159.96 per month. The parties agreed at hearing that the commission structure would not have changed despite the other changes in claimant’s compensation. It is therefore reasonable to infer that claimant would likely earn approximately \$2,160 per month going forward, at most, had he continued to work for the employer full time. That amount is less than the \$2,608.66 an employee paid the standard minimum wage would earn in a month for full-time work.<sup>4</sup> A reasonable and prudent person of normal sensitivity, exercising

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<sup>4</sup> Because claimant also performed “building science” work that did not involve commissioned sales, the record does not show that claimant met the statutory definition of an “outside salesperson” exempt from the minimum wage law under ORS 653.020(6). However, the elimination of minimum earnings resulting in commission-only pay that is less than the equivalent

ordinary common sense, would not continue to work for less than the equivalent of minimum wage. Furthermore, considering claimant's experience and compensation history, a position paying less than the equivalent of minimum wage would not be suitable work.<sup>5</sup> Claimant therefore faced a grave situation.

Claimant did not have a reasonable alternative to leaving work. Claimant objected to the changes in compensation when told about them, but the employer demonstrated no willingness to reconsider or negotiate the changes. Moreover, continuing to work while looking for other work, as the grave situation persisted, was not a reasonable alternative to quitting work. *Warkentin v. Employment Dep't.*, 245 Or App 128, 261 P3d 72 (2011). Accordingly, claimant quit work for a reason of such gravity that he had no reasonable alternative but to quit when he did, and therefore quit with good cause.

For these reasons, claimant quit work with good cause and is not disqualified from receiving unemployment insurance benefits based on the work separation.

**DECISION:** Order No. 26-UI-326413 is set aside, as outlined above.

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

**DATE of Service:** May 22, 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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of minimum wage is a factor relating to work suitability that is properly considered in the good cause analysis. See *Klumb v. Employment Div.*, 123 Or App 295, 858 P2d 1354 (1993). Even if the lowest of Oregon's three minimum wages, \$14.05 per hour, was applicable, claimant's projected monthly earnings would fall below that amount (\$2,435.33).

<sup>5</sup> ORS 657.190 provides, "In determining whether any work is suitable for an individual, the Director of the Employment Department shall consider, among other factors, the degree of risk involved to the health, safety and morals of the individual, the physical fitness and prior training, experience and prior earnings of the individual, the length of unemployment and prospects for securing local work in the customary occupation of the individual and the distance of the available work from the residence of the individual."



# 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 محكمة 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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