

**EMPLOYMENT APPEALS BOARD DECISION**  
**2026-EAB-0365**

*Affirmed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On March 9, 2026, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit work without good cause and was therefore disqualified from receiving unemployment insurance benefits effective February 1, 2026 (decision # L0016378075).<sup>1</sup> Claimant filed a timely request for hearing. On March 30, 2026, ALJ Laurie-Gardiner conducted a hearing and issued Order No. 26-UI-325448, reversing decision # L0016378075 by concluding that claimant was discharged, but not for misconduct, and was not disqualified from receiving benefits based on the work separation. On April 17, 2026, the employer filed an application for review with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** The employer did not state that they provided a copy of their argument to the employer as required by OAR 471-041-0080(2)(a) (May 13, 2019). The argument also 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 as required by OAR 471-041-0090 (May 13, 2019). EAB considered only the information received into evidence at the hearing. *See* ORS 657.275(2).

**FINDINGS OF FACT:** (1) Insperity PEO Services, a professional employer organization, employed claimant on behalf of MaxBP as a production manager from February 5, 2025 to January 22, 2026.

(2) On January 5, 2026, claimant sent an email to MaxBP's chief executive officer (CEO) that stated, in relevant part:

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<sup>1</sup> Decision # L0016378075 stated that claimant was denied benefits from January 25, 2026 to January 23, 2027. However, as decision # L0016378075 asserted that the work separation occurred on February 2, 2026, it should have stated that claimant was disqualified from receiving benefits beginning Sunday, February 1, 2026, and until she earned four times her weekly benefit amount. *See* ORS 657.176.

I think the best thing for me to do right now is take a step back from managing and become a regular employee. . . The holiday season really put me off to managing and it's affecting my mental health. I also want to spend more time with my son, and less time frantically checking emails at home. Hope you can understand. I will keep managing for a couple weeks if you need it, but I need to start thinking about myself. I assume I'll be taking a pay cut, too, and that's okay with me.

Exhibit 1 at 1.

(3) On January 9, 2026, claimant sent another email to the CEO, stating that she had not received a response to the earlier email and suggesting a candidate for a warehouse manager position.

(4) On January 12, 2026, claimant drafted a document stating that, effective January 15, 2026, she would be working 37 hours per week for \$30 per hour with no possibility of overtime, and during a meeting that day presented the document to the CEO for his signature. Claimant told the CEO that she intended to use the document, if he signed it, to support a claim for public benefits. The CEO did not sign the document.

(5) On January 13, 2026, the CEO emailed claimant stating that he had just seen her previous emails and that he would interview the candidate for the warehouse manager position that claimant had suggested. The CEO also wrote: "I can handle anything in the meantime, let me know what you need to hand off, status of various management things and where I can tag in or I can assign to others." Exhibit 1 at 3.

The email conversation continued, in relevant part:

Claimant: \* \* \* I just wanted to reiterate again that I do not want the position I'm in now. I enjoy the work that needs to be done on a daily basis and I'm good at it. I'd like to just do that.

CEO: \* \* \* So starting 1/16, the next pay period (or tomorrow?) go to \$30/hr (the rest of the team is at \$27) and 37 hours max per week?

Claimant: No, 40 hours a week. But yes, they don't care that it'll reach 40 as long as it says 30/hr. I'll work to have everyone collaborate with each other and ensure a good flow of work.

CEO: What if you work 50?

Claimant: They never contacted you about me in 2025. They won't contact you this year. I wouldn't put you in a position where you'd really get in trouble.

CEO: I'm just trying to work on a budget, tasks you will do, and listing for a new manager. And if you think you should get \$30/hr instead of \$27/hr the rest of the crew gets. What job description and responsibilities would you like for yourself?

Claimant: I think 30/hr is more appropriate because I have already hired the whole team that you need for your next year of production/shipping, including myself put into these roles, and because I am ensuring an efficient flow of work and direction until you hopefully find someone who will succeed in this management position.

Exhibit 1 at 7-11.

(6) On January 14, 2026, the CEO met with claimant and told her that she was “selfish. . . a quitter. . . [and] manipulative” and that he “would not work well with [claimant] in the future.” Transcript at 10. The CEO also told claimant that she would have to “re-interview” for a non-management position, which claimant was willing to do. Transcript at 18.

(7) On Saturday, January 17, 2026, claimant texted the CEO, “What’s happening with my position come Monday? Do you want to re interview me for a position I train people to do? I know you don’t like to be pushed for answers, but this can’t really wait. You told me to text you with important stuff, and you’d respond. Can you please respond? This is important to me. I understand your feelings are hurt because I don’t want to be manager anymore, but I have done no wrong to you.” Exhibit 1 at 13. The CEO responded that day, “My feelings are not hurt. I am mad that you have damaged the business. I have a close friend dying any day, i’ve had a bag packed to hop on a plane for two days. I can’t deal with this now. At this point I don’t want you working for MaxBP. Insperity has been unavailable for me to consult, they are back Tuesday. Best for you to stay home until we have a resolution.” Exhibit 1 at 15.

(8) From January 20 through 22, 2026, the CEO consulted with Insperity and an attorney regarding how to end claimant’s employment. Claimant was not permitted to work during that period. At their advice, the CEO decided to construe claimant’s January 5, 2026 email as a resignation and accept it, effective January 22, 2026, and issued claimant her final paycheck that day.

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

**Nature of the Work Separation.** A work separation occurs when a claimant or employer ends the employer-employee relationship. If claimant could have continued to work for the employer for an additional period of time, the work separation is a voluntary leaving. OAR 471-030-0038(2)(a) (September 22, 2020). If claimant was willing to continue working for the employer for an additional period of time, but the employer did not allow claimant to do so, the separation is a discharge. OAR 471-030-0038(2)(b).

The parties disputed the nature of the work separation. The employer asserted that claimant’s January 5, 2026 email was a resignation that they accepted on January 22, 2026. Conversely, claimant asserted that she never resigned, and that the CEO discharged her by texting on January 17, 2026, “At this point I don’t want you working for MaxBP. . . Best for you to stay home until we have a resolution,” and issuing her a final paycheck on January 22, 2026. Exhibit 1 at 15.

In her January 5, 2026 email, claimant proposed a demotion to a non-managerial role with a corresponding pay decrease. Claimant wrote, “I will keep managing for a couple weeks if you need it, but I need to start thinking about myself.” While this phrasing was more suggestive of a demand than a request, the record does not show that claimant ever framed it as an ultimatum in which she asserted that

she would stop working for the employer if the demotion was not approved. The CEO's responses prior to January 14, 2026 led claimant to believe that he was considering the proposal and seeking additional details about it, and on January 14, 2026, he told claimant that she would have to re-interview for the non-managerial position. Although claimant expressed doubt, in a January 17, 2026 text message, that the employer would benefit from interviewing her for the non-managerial position, the record shows that she never expressed an unwillingness to submit to such an interview. In sum, claimant never said or implied to the employer that she was unwilling to continue working for them regardless of whether the demotion was approved.

In contrast, after having appeared to consider claimant's demotion proposal for several days, the CEO texted claimant that he was "mad that [she] damaged the business," and wrote, "At this point I don't want you working for MaxBP. Insperity has been unavailable for me to consult, they are back Tuesday. Best for you to stay home until we have a resolution." Claimant was not permitted to return to work thereafter, and received a final paycheck on January 22, 2026. The CEO asserted that the check was issued upon acceptance of claimant's resignation, referring to her January 5, 2026 email. However, for the reasons explained above, claimant's January 5, 2026 email cannot objectively be construed as expressing an intent to end the employment relationship. Therefore, the CEO moved to sever the employment relationship by telling claimant that he did not "want [her] working for MaxBP" and to "stay home" until further notice, then issuing the final paycheck. Accordingly, because claimant was willing to continue working for an additional period of time but was not allowed to do so by the employer, the work separation was a discharge that occurred on January 22, 2026.

**Discharge.** 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). "[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).

The employer discharged claimant because she proposed a demotion to a non-managerial position. The CEO testified that claimant's employment ended "because we didn't have a [non-managerial] position, and the situation just deteriorated from [January] 13th through the 18th. Some serious problems or serious things, actions were taken by [claimant] over those days that were damaging to the company." Transcript at 23. However, the record does not show what actions the CEO viewed as "damaging to the company" other than claimant advancing the proposal, or how the situation "deteriorated" by claimant thereafter asking about whether it would be approved. The record suggests that the employer was unhappy that claimant phrased the proposal as more of a demand than a request; that its timing suggested that the proposal might have been motivated by claimant's desire to limit reported income to maintain public benefits; and that the business might be disrupted to some degree by having to fill the manager role. However, by merely proposing a demotion and asking for the employer's response,

claimant did not violate a standard of behavior that an employer has the right to expect of an employee. Accordingly, the employer has not shown that they discharged claimant 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-325448 is affirmed.

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

**DATE of Service:** May 27, 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.

**Employment Appeals Board - 875 Union Street NE | Salem, OR 97311**  
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