

**EMPLOYMENT APPEALS BOARD DECISION**  
**2026-EAB-0368**

*Reversed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On December 23, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged by the employer for misconduct and disqualified from receiving benefits effective November 9, 2025 (decision # L0014847598).<sup>1</sup> Claimant filed a timely request for hearing. On April 2, 2026, ALJ Micheletti conducted a hearing, and on April 3, 2026 issued Order No. 26-UI-325970, affirming decision # L0014847598. On April 17, 2026, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) The medical practice of David F. Young MD, PC employed claimant from December 2, 2019 until November 11, 2025. Claimant initially worked as a receptionist for the employer. At some point before November 2024, the employer promoted claimant to lead receptionist. One of the duties listed in the lead receptionist job description was, “Facilitate and/or delegate training of staff.” Exhibit 1 at 4.

(2) In November 2024, the employer hired a new office manager, and the existing office manager, with whom claimant had had a productive working relationship, was promoted to business manager. Claimant reported to the new office manager. Claimant found that she did not work as harmoniously with the new office manager as she had the previous office manager.

(3) On May 14, 2025, the employer gave claimant a disciplinary write-up. Thereafter, from mid-May 2025 through September 2025, claimant was frequently absent from work due to illness and related medical treatment.

(4) On October 23, 2025, the employer gave claimant another disciplinary write-up, which documented numerous alleged violations of the employer’s expectations during October 2025.

<sup>1</sup> Decision # L0014847598 stated that claimant was denied benefits from November 9, 2025 to November 7, 2026. However, decision # L0014847598 should have stated that claimant was disqualified from receiving benefits beginning November 9, 2025 and until she earned four times her weekly benefit amount. *See* ORS 657.176.

(5) On November 7, 2025, the office manager assigned the employer's other receptionist to train a newly-hired receptionist trainee. The office manager had previously informed claimant that the other receptionist was to conduct the training exclusively. While the other receptionist was training the trainee, claimant approached the two for a purpose unrelated to the training. Then, with the intention to be helpful, claimant interjected three times during the training. The office manager observed claimant interacting in the training but neither she nor the trainer receptionist told claimant to stop doing so. Claimant did not realize that inserting herself in the training was a violation of the employer's expectations because, consistent with the lead receptionist job description, the employer had previously condoned claimant sharing her thoughts when a receptionist was trained.

(6) On November 11, 2025, the employer discharged claimant. The final incident that led the employer to discharge claimant was that she had "insert[ed] herself into the training" on November 7, 2025. Transcript at 23.

**CONCLUSIONS AND REASONS:** The employer discharged claimant, 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 and good faith errors are not misconduct. OAR 471-030-0038(3)(b).

The order under review concluded that the employer discharged claimant for misconduct. Order No. 26-UI-325970 at 3. The record does not support this conclusion. The record shows that the proximate cause of claimant's discharge was her conduct of interjecting in the November 7, 2025 training. The employer did not meet their burden to prove that claimant's actions in that regard were willful or wantonly negligent violations of their expectations.

Although the employer offered evidence of claimant having allegedly violated their expectations on occasions in addition to claimant's conduct of inserting herself into the November 7, 2025 training, the record shows that this latter conduct was the proximate cause of claimant's discharge. This is the case because, at hearing, the employer's office manager testified that the final incident that caused the employer to discharge claimant was "the training issue . . . inserting herself into the training." Transcript at 23. Thus, claimant's conduct of inserting herself into the training on November 7, 2025 was the incident without which the discharge would not have occurred when it did. That incident therefore is the proximate cause of the discharge and the focus of the discharge analysis. *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).

The parties offered somewhat differing accounts of claimant's behavior on November 7, 2025. The office manager testified that she had assigned a different receptionist to train the receptionist trainee, and that she had told claimant in advance that she wanted only the receptionist to conduct the training of the trainee. Transcript at 30, 32. The office manager testified that on at least three occasions while the receptionist was training the trainee on November 7, 2025, she observed that claimant "would come up and interrupt and try to take over [the training]" Transcript at 20, 30. The office manager testified that the trainer later came to her frustrated and teary-eyed because of claimant's interruptions. Transcript at 30.

In claimant's testimony, she agreed that the office manager had assigned the receptionist to train the trainee, and that the office manager had told her previously that the receptionist would be training the trainee exclusively. Transcript at 38, 44. However, claimant testified that she initially approached the receptionist and trainee "for another reason and not to interrupt [them]." Transcript at 39. Claimant testified that once she was in the presence of the receptionist and trainee, she interacted with them "to give a little bit of [her] knowledge," but that she was not rude while doing so. Transcript at 39. Claimant testified that she interjected in the training three times, but did not recall the receptionist or anyone else ever telling her to stop when she did so. Transcript at 39, 50. Claimant testified that her intent when she interjected was to be helpful. Transcript at 44. Claimant testified that she "didn't realize it was a violation" to insert herself into the training as previously it had not been viewed as a problem for her to share her thoughts when a receptionist was trained. Transcript at 44. Claimant also implied that she thought she had the latitude to share her knowledge during the training because of her role as the lead receptionist. Transcript at 45. Aspects of claimant's job description bolster this point, given that one of the lead receptionist's duties is listed as, "Facilitate and/or delegate training of staff."

This decision accepts claimant's version of events where the two above accounts conflict, given that the employer bears the burden of proof, and otherwise considers the evidence of the final incident in its totality. Viewed in this light, the record shows that the office manager had informed claimant that the receptionist was to conduct the training exclusively. However, it also shows that claimant initially approached the trainer and trainee for a different purpose, her intention when she inserted herself was to be helpful, she was not rude while interjecting, and neither the receptionist nor the office manager told her to stop interjecting at the time. Further, claimant did not realize that by inserting herself, she was violating the employer's expectations, given that the employer had previously condoned claimant sharing her thoughts when a receptionist was trained, which was consistent with claimant's job description as lead receptionist.

The employer did not prove by a preponderance of the evidence that claimant acted to violate the employer's expectations willfully or with wanton negligence when she interjected in the training on November 7, 2025. Claimant did not willfully violate the employer's expectations because, although the office manager had informed claimant that the receptionist was to conduct the training exclusively, claimant "didn't realize it was a violation" to insert herself into the training as previously it had been acceptable for her to share her thoughts when a receptionist was trained.

Claimant also did not violate the employer's expectations with wanton negligence. Here, given the facts that claimant initially approached the receptionist and trainee for a different purpose, that claimant was not rude, that her intention in inserting herself was to be helpful, that no one told her to stop interjecting at the time, and that the employer had previously condoned claimant sharing her thoughts when a receptionist was trained, the record fails to show that claimant's conduct was the result of indifference to the consequences of her actions, and not a good faith error.

For these reasons, the employer failed to prove that the final incident for which they discharged claimant was a willful or wantonly negligent violation of their expectations. As the employer has not met their burden to prove that the proximate cause of the discharge was a willful or wantonly negligent violation, it is not necessary to analyze claimant's other alleged violations of the employer's expectations, as that analysis would only apply to assess whether claimant's conduct of inserting herself into the training on November 7, 2025 was an isolated instance of poor judgment.

Accordingly, the employer discharged claimant, but not for misconduct. Claimant is not disqualified from receiving benefits based on the discharge.

**DECISION:** Order No. 26-UI-325970 is set aside, as outlined above.

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

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

ទោរទៅ – តម្រូវការនេះមិនមែនជាភារកិច្ចរបស់យើងទេ បើសិនជាអ្នកមិនយល់អំពីសេចក្តីសម្រេចនេះ សូមទាក់ទងគណៈកម្មការឧទ្ធរណ៍ការងារភ្លាមៗ។ ប្រសិនបើលោកអ្នកមិនយល់ស្របចំពោះសេចក្តីសម្រេចនេះទេ លោកអ្នកអាចដាក់ពាក្យប្តឹងសុំឲ្យមានការពិនិត្យរឿងក្តីឡើងវិញជាមួយតុលាការឧទ្ធរណ៍រដ្ឋ Oregon ដោយអនុវត្តតាមសេចក្តីណែនាំដែលសរសេរនៅខាងចុងបញ្ចប់នៃសេចក្តីសម្រេចនេះ។

**Arabic**

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**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 دستورالعمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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