

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0394

Reversed
No Disqualification

PROCEDURAL HISTORY: On February 23, 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 September 7, 2025 (decision # L0016160249). Claimant filed a timely request for hearing. On April 22, 2026, ALJ Krueger conducted a hearing and issued Order No. 26-UI-327983, affirming decision # L0016160249. On April 27, 2026, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Sunrise Restaurants, LLC employed claimant as a line cook at one of their restaurants in early September 2025. Claimant worked two shifts before separating from employment on September 11, 2025. At the time of claimant's hire, the employer planned to permanently close the restaurant at which claimant worked on November 5, 2025 for financial reasons.

(2) Upon arrival for her first shift, claimant found the restaurant's kitchen in an unsanitary state. Claimant observed dead insects throughout, including in the refrigerator and food preparation areas, as well as mouse droppings and a dead mouse. Claimant spent much of her four-hour shift cleaning the kitchen, but felt that it was still not sufficient, and told the other cook on duty as much.

(3) On September 11, 2025, during claimant's second shift, she told a manager that she was not comfortable continuing to work for the employer due to health and safety concerns for herself and the restaurant's customers posed by the state of the kitchen. Claimant offered to work a notice period but the manager said it was unnecessary, so claimant's resignation became effective immediately. Claimant left the restaurant and did not work for the employer thereafter.

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).

Claimant quit work due to the unsanitary condition of the restaurant’s kitchen. Although claimant spent her first shift attempting to remediate it, she believed that the kitchen remained unsafe to work in or serve food from. The employer failed to rebut claimant’s description of the kitchen’s condition, as their only witness to testify at hearing was a human resources manager who did not have personal knowledge of the condition of the kitchen, although she testified that the employer had not received any other complaints regarding the kitchen. Audio Record at 26:05. The apparent lack of concern by the restaurant’s management and other employees regarding the unsanitary conditions suggested that they were unlikely to immediately change the practices that led to those conditions, or to prioritize bringing the kitchen to an acceptable state. ORS 657.190 provides that the factors to consider when determining whether work is “suitable” for an individual include “the degree of risk involved to the health, safety and morals of the individual.” Here, claimant discovered immediately upon starting the job that it was not suitable based on those factors, and therefore quit work. Under these circumstances, claimant faced a grave situation.

The order under review concluded that while claimant faced a grave situation, she had reasonable alternatives to quitting, such as suggesting that the employer “take action... such as by closing the restaurant to deep-clean the kitchen, or by hiring pest control services”; working in a location other than the kitchen; or reporting her concerns to health authorities. Order No. 26-UI-327983 at 2. The record does not support that these were reasonable alternatives to leaving. As the condition of the kitchen would have been apparent to restaurant management and other kitchen employees for some time before claimant was hired, a complaint by a new cook on her first day of work would likely not have convinced the employer to immediately close the restaurant or expend substantial resources on cleaning it or improving sanitary practices. Regarding claimant avoiding being present in the kitchen, it is unlikely that a restaurant line cook would be able to perform their duties elsewhere. Finally, while claimant could have reported her observations to health authorities, it is unclear how quickly they may have responded or how the response would have affected claimant. Given the employer’s plan to close the restaurant in less than two months, it is possible claimant’s complaint would have hastened the permanent closure and, presumably, the end of the employment relationship; or, resulted in a temporary closure and extended unpaid leave for claimant during those two months. As such, none of these were reasonable alternatives to quitting work when claimant did, and she therefore quit with good cause.

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

DECISION: Order No. 26-UI-327983 is set aside, as outlined above.

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

DATE of Service: June 8, 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 desisyong ito.

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.

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