EO: Intrastate
BYE: 06-Feb-2027

State of Oregon
Employment Appeals Board
875 Union St. N.E.
Salem, OR 97311

343
VQ 005.00

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0433

Affirmed
Eligible through January 31, 2026
Disqualification Effective February 1, 2026

PROCEDURAL HISTORY: On March 13, 2026, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause, disqualifying claimant from receiving benefits effective February 1, 2026 (decision # L0016499075).[1] Claimant filed a timely request for hearing. On April 20, 2026, ALJ Frank conducted a hearing at which the employer failed to appear, and on April 23, 2026 issued Order No. 26-UI-328065, modifying decision # L0016499075 by concluding that claimant was disqualified from receiving benefits effective February 1, 2026, but was not disqualified from receiving benefits based on the work separation prior to that date. On May 6, 2026, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant's 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 him 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 argument that were based on the hearing record.

FINDINGS OF FACT: (1) Applied Materials, Inc. employed claimant as an equipment engineer from 2019 through January 21, 2026.

(2) The team that claimant worked on towards the end of his employment included several employees who regularly used profanity. For instance, on one occasion in or around January 2026, one of claimant's coworkers said in a group chat on Microsoft Teams, "Not only did he take it down, he did it

[1] Decision # L0016499075 stated that claimant was denied benefits from January 18, 2026 to February 6, 2027. However, as decision # L0016499075 determined that claimant quit on February 4, 2026, it should have stated that claimant was disqualified from receiving benefits beginning Sunday, February 1, 2026 and until he earned four times his weekly benefit amount. *See* ORS 657.176.

in a way that broke some shit lol[.]" Exhibit 1 at 8. Claimant was uncomfortable with the use of such language. The leadership of claimant's team was aware of, and in some cases participated in, this use of profanity. On several occasions, the last of which occurred in or around late December 2025, claimant sought reassignment to a different team or department so that he could work with what he felt would be a more agreeable group of employees. The employer did not grant claimant's requests.

(3) On or around January 13, 2026, one of claimant's coworkers renamed the team's group chat "pack o' dumbshits." Exhibit 1 at 6. Claimant was uncomfortable with the name given to the group chat. The team's lead technician was included in the chat but did not stop the renaming of it.

(4) On January 20, 2026, claimant gave the employer notice that he intended to quit, effective February 3, 2026. Claimant decided to quit because his team's continued use of profanity made him feel uncomfortable.

(5) On January 21, 2026, the employer discharged claimant with immediate effect. The employer did not give claimant a reason for the discharge.

(6) Prior to separating from work, claimant did not seek intervention from the employer's human resources (HR) department regarding his concerns about his team's use of profanity. He did not do so because he felt that the employer would retaliate against him if he did.

CONCLUSIONS AND REASONS: Claimant was discharged, but not for misconduct, within 15 days of a planned quit without good cause.

Nature of the Work Separation. If a claimant notified their employer they would quit work on a specific date, and the quit would have been without good cause, but the employer discharged the claimant, not for misconduct, no more than 15 days before the date of the planned quit, then the separation from work is adjudicated as if the discharge had not occurred and the planned quit had occurred. ORS 657.176(7). However, the claimant is eligible for benefits for the week in which the actual discharge occurred through the week before the week of the planned quit. ORS 657.176(7).

The employer discharged claimant on January 21, 2026, one day after he gave notice of his intention to quit on February 3, 2026. Because the employer discharged claimant within 15 days of when he intended to quit, it is necessary to determine whether ORS 657.176(7) applies to claimant's work separation. As such, determinations must be made both as to whether claimant's planned quit would have been for good cause, and whether the discharge was for misconduct.

Planned Quit. 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 intended to quit work because was uncomfortable with his coworkers' use of profanity. The record contains only two examples of this, both in group chats. The first was a statement by another employee that someone had performed a task in a way that had "broke some shit." The second was the naming of the group chat "pack o' dumbshits." Neither of these uses of profanity appeared to have been specifically directed at claimant. Claimant did not further elaborate on why the team's use of profanity made him uncomfortable, and neither did he offer evidence of any ways in which it negatively affected his well-being or ability to perform his work. To be clear, claimant is not to be faulted for having a particular dislike for the use of profanity in his presence. However, under these circumstances, claimant has not met his burden of proof to show that the use of profanity constituted a grave situation.

Furthermore, even if claimant's situation was grave, he likely had reasonable alternatives to quitting. The only alternative that claimant pursued was requesting to be reassigned to a different team or department, which he felt might have resulted in his working with a more agreeable group of people. Claimant did not, however, attempt to seek intervention from HR, as he felt that doing so would result in retaliation against him. Claimant did not explain what this retaliation might have looked like, however, or show that any such retaliation was, in fact, likely to occur if he reported the matter to HR. Thus, claimant has not shown, by a preponderance of the evidence, that attempting such an intervention would have been futile. Similarly, the record does not show that claimant ever attempted to speak to anyone on his team, including leadership, about the fact that the profanity usage made him uncomfortable. In short, other than attempting to remove himself from the situation entirely, claimant has not shown that he ever made any attempt to address the issue directly, or that doing so would have been futile. A reasonable and prudent person in claimant's circumstances would have made such attempts to address the issue, either personally or via intervention from an authority such as HR, prior to giving their notice of resignation.

Because claimant has not shown that he faced a situation of such gravity that he had no reasonable alternative but to quit, claimant's planned quit would not have been for good cause.

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 on January 21, 2026, a day after claimant gave his notice of resignation. The employer did not explain to claimant why they discharged him and did not appear at hearing or offer any evidence into the hearing record to explain why they discharged him. As such, the employer has not met their burden of proof to show that claimant was discharged for a willful or wantonly negligent violation of their standards of behavior, and claimant therefore was discharged, but not for misconduct.

Because claimant was discharged, not for misconduct, within 15 days of the date on which claimant intended to quit without good cause, ORS 657.176(7) applies to claimant's work separation. Claimant therefore is allowed unemployment insurance benefits, if otherwise eligible, for the weeks of January 18 through 24, 2026 (the week in which the actual discharge occurred) and January 25 through 31, 2026 (the week prior to the planned quit), and disqualified from receiving benefits effective February 1, 2026 (the week of the planned quit).

DECISION: Order No. 26-UI-328065 is affirmed.

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

DATE of Service: June 12, 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.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to https://www.surveygizmo.com/s3/5552642/EAB-Customer-Service-Survey. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.

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 – 本判决会影响您的失业救济金。 如果您不明白本判决， 请立即联系就业上诉委员会。 如果您不同意此判决，您可以按照该判决结尾所写的说明，向俄勒冈州上诉法院提出司法复审申请。

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 ໄດ້ ໂດຍປະຕິບັດຕາມຄຳແນະນຳທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄຳຕັດສິນນີ້.

Arabic

هذا القرار قد يؤثر على منحة البطالة الخاصة بك، إذا لم تفهم هذا القرار، إتصل بمجلس منازعات العمل فورا، 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 دستورالعمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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