

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0570

Affirmed
Disqualification

PROCEDURAL HISTORY: On April 14, 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 from March 1, 2026 to February 27, 2027 (decision # L0017022575). Claimant filed a timely request for hearing. On May 1, 2026, ALJ Franco conducted a hearing, and on May 13, 2026 issued Order No. 26-UI-330213, modifying decision # L0017022575 by concluding that claimant quit work without good cause and therefore was disqualified from receiving benefits effective February 8, 2026. On June 1, 2026, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: EAB considered claimant's argument in reaching this decision.

FINDINGS OF FACT: (1) The city of Molalla employed claimant as a community development technician from April 3, 2024 until February 13, 2026. Claimant was a graphic designer by training and during her employment carried out graphic design work for the employer along with numerous separate clerical tasks. Claimant's supervisor was the employer's assistant city manager.

(2) From the start of her employment, the employer noted some deficiencies in claimant's work performance. Due to these performance deficiencies, the employer extended the probationary period that began when claimant was hired and which claimant had to successfully complete to maintain her job. Claimant eventually successfully completed the extended probationary period.

(3) At times thereafter, the employer's assistant city manager came to believe that aspects of claimant's performance remained deficient or that claimant had violated one or more of the employer's workplace policies. As a result, claimant received a number of verbal counselings and disciplinary write-ups throughout the latter part of 2025.

(4) In June 2025, claimant began to have a tense relationship with some of her work colleagues, including the employer's city recorder and the recorder's subordinate. On June 3, 2025, claimant met with the employer's city manager and human resources coordinator and learned during the meeting that

the recorder's subordinate felt that claimant was bullying and harassing the subordinate and the city recorder. Sometime later that month, outside of work, claimant passed the city recorder while driving her vehicle and believed the recorder directed a rude gesture at her as the two passed each other on the highway. In October 2025, during a meeting to discuss the employer making an online post about a day intended for reflection regarding infant mortality, the city recorder used a phrase to refer to infant mortality, "dead babies," that claimant found offensive. Exhibit 1 at 1.

(5) On January 22, 2026, claimant met with the assistant city manager and a city engineer and was presented with a second written warning disciplinary write-up, which noted several alleged violations of workplace policies. *See* Exhibit 1 at 11-13. During the meeting, the three discussed an email claimant had sent to the city recorder, which claimant thought was interpreted by the others as having a harsh tone that she had not intended. Claimant found the meeting to be stressful and became emotional. After claimant became emotional, the assistant city manager sent her home for the remainder of the day.

(6) On January 23, 2026, claimant returned to work. That day, in addition to typical work tasks, the assistant city manager assigned claimant to complete a number of miscellaneous tasks such as cleaning her desk, taking home some of the plants from her desk, and mopping the floor of the break room. Exhibit 1 at 14.

(7) On February 13, 2026, claimant reported to work. That morning, the assistant city manager presented claimant with a final warning disciplinary write-up, which noted several alleged violations of workplace policies, and informed claimant that she was scheduled to meet with the city manager in an hour to discuss the write-up. The assistant city manager told claimant, "Hey, I think you might get terminated here," and explained, "When I've seen stuff like this in the past, that's usually, at different places including here, that I've worked, that's usually how this is gonna go." Audio Record at 30:21, 30:44.

(8) The assistant city manager did not have authority to discharge claimant, as that authority was vested exclusively in the city manager. When the assistant city manager told claimant that she might be discharged, he did not know what was going to happen but concluded that claimant would probably be discharged "just through simple logic," and his own "conjecture," based on claimant's history of verbal counselings and disciplinary write-ups. Audio Record at 30:41, 31:21, 32:51.

(9) The final warning disciplinary write-up claimant received on February 13, 2026 was the second-to-last step to discharge. A termination of claimant's employment would have come with its own write-up, and only after the final warning write-up was issued.

(10) After receiving the write-up and learning that the assistant city manager thought she might be discharged, claimant resigned with immediate effect. Claimant quit working for the employer because of what she considered to have been "ongoing unprofessional interactions with coworkers." Audio Record at 13:53. Claimant also quit working for the employer because she "didn't feel like there was anything else to do" after the assistant city manager told her about the likelihood of discharge by the city manager.

CONCLUSIONS AND REASONS: Claimant voluntarily left work without 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).

At hearing, claimant testified that she quit working for the employer because of “ongoing unprofessional interactions with coworkers.” Audio Record at 13:53. Claimant also stated that she resigned because she “didn’t feel like there was anything else to do” after her supervisor, the assistant city manager, told her about the probability of being discharged by the city manager in the meeting that was scheduled for later that day. Audio Record at 15:23.

As to this former reason for leaving work, claimant quit work without good cause. Claimant failed to prove that work colleagues’ treatment of her presented her with a situation of gravity. The bulk of what claimant described as unprofessional interactions involved the city recorder and her subordinate, and related to actions taken by those individuals months before claimant left work. Specifically, claimant noted that in June 2025 the subordinate had accused her of bullying and harassment (which was conveyed to claimant in a meeting with the city manager), that the city recorder had directed a rude gesture toward her once outside of work while the two passed on the road, and that the city recorder had used a phrase to refer to infant mortality, “dead babies”, which claimant found offensive. Exhibit 1 at 1. Claimant failed to show that these experiences dating from June 2025, either individually or in combination, were of such gravity that she had no reasonable alternative but to leave work on February 13, 2026.

Claimant also cited as unprofessional treatment being sent home by the assistant city manager on January 22, 2026 and the next day being presented with a number of miscellaneous work tasks such as cleaning her desk, taking home some of the plants from her desk, and mopping the floor of the break room. Exhibit 1 at 14. However, the record fails to show that the assistant city manager’s decision to send claimant home on January 22, 2026 was unjustified, given that claimant acknowledged that the meeting that day was stressful and that she had become emotional. Exhibit 1 at 2. Further, though claimant was a graphic designer by training and during her employment carried out graphic design work along with numerous separate clerical tasks, it is not evident that assigning claimant to clean her desk or take home some of her plants was inappropriate on the part of the assistant city manager. Additionally, while mopping the break room does not appear to fall within the ambit of claimant’s usual work duties, a reasonable and prudent person would not leave work based on a single instance of being assigned such work by their supervisor. Accordingly, claimant did not establish that she quit work with good cause based on work colleagues’ treatment of her.

As to the latter reason claimant quit working for the employer, to some extent, claimant’s circumstances resembled those of the claimant in *McDowell v. Employment Dep’t*, 348 Or 605, 236 P3d 722 (2010). In *McDowell*, the Oregon Supreme Court held that a claimant had good cause to quit work where he did so to avoid being discharged, not for misconduct, when the discharge the claimant faced was imminent, inevitable, and would impair his future job prospects. However, claimant did not establish good cause to quit work under *McDowell*, because the likelihood that she would have been discharged fell short of the

degree of assurance that the future discharge will occur that is required to constitute a situation of gravity. Also, unlike *McDowell*, the record does not contain any evidence to show that a discharge, had it occurred, would have harmed claimant's future job prospects, and that those prospects would have been harmed more appreciably by claimant being discharged than by her quitting work.

At hearing, the witnesses gave testimony that differed to a degree regarding the likelihood that claimant faced a discharge on February 13, 2026. Claimant testified that she was presented with the disciplinary write-up on February 13, 2026 and was told that she was to meet with the city manager in an hour. Audio Record at 14:35, 15:56. Claimant further stated that the assistant city manager told her that he thought the city manager was going to discharge her. Audio Record at 15:07. Claimant stated that the assistant city manager said, "If I were you, if I were in that position, I would resign." Audio Record at 15:28. The witnesses either did not recall or did not share what alleged deficiencies or policy violations were reflected in the February 13, 2026 disciplinary write-up, although claimant remembered seeing the word "termination" written on it. Audio Record at 16:45 to 17:26; 32:25, 33:19.

For his part, the assistant city manager testified that, based on the prior disciplinary write-ups claimant had received, he anticipated that the February 13, 2026 write-up "was probably going to result in termination," and so he said to claimant, "Hey, I think you might get terminated here." Audio Record at 30:00, 30:21. However, the witness testified that the authority to terminate was not in his purview, but was vested exclusively in the city manager, and that he warned claimant of the possibility of discharge in an equivocal way, stating, "I just said when I've seen stuff like this in the past, that's usually, at different places including here, that I've worked, that's usually how this is gonna go." Audio Record at 30:44. The assistant city manager testified that he did not know what was going to happen but concluded that claimant would probably be discharged "just through simple logic," and that while he thought that the decision to discharge had been made, that was "conjecture" on his part. Audio Record at 30:41, 31:21, 32:51. Given that claimant bears the burden of proof and that the reliability of the two accounts is equally balanced, to the extent the accounts conflict, this decision accepts the employer's version of events.

Documentary evidence also sheds some light on whether claimant would have been discharged by the city manager on February 13, 2026, had she not quit. The record contains a disciplinary write-up dated January 22, 2026, which is labeled a "Second Written Warning" and corresponds to the matters discussed by claimant and the assistant city manager at the January 22, 2026 meeting in which claimant got emotional and was sent home for the day. Exhibit 1 at 11-13. A heading at the top of the first page of the write-up contains a descending list of the following types of discipline, with a check box by each: "Verbal Documentation, First Written Warning, Second Written Warning, Final Warning, Suspension, [and] Termination." Exhibit 1 at 11. The box next to "Second Written Warning" is checked. Exhibit 1 at 11. This list supplies an explanation for the word "termination" that claimant saw on the February 13, 2026 write-up, as it stands to reason that the February 13, 2026 write-up contained the same heading with the list of discipline types, including "Termination." It is also reasonable to conclude that the February 13, 2026 write-up, coming about three weeks after the January 22, 2026 second written warning, was a "Final Warning", the next discipline type in the list. That "Termination" is listed at the end of that list with its own checkbox suggests that receiving the final warning was the penultimate step to discharge, and that a termination of claimant's employment would likely come along with its own written form, and only after the final warning was issued.

Thus, the record reflects that although the assistant city manager thought claimant probably would be discharged on February 13, 2026, and told claimant as much, he did not have the authority to discharge claimant himself and his view that claimant would be discharged was based on his own logic and conjecture. Further, documentary evidence suggests that the February 13, 2026 write-up was a final warning that was the second-to-last step before discharge would have occurred. Accordingly, unlike the likelihood of discharge that was deemed to constitute good cause for quitting in *McDowell*, a future discharge of claimant was not imminent and inevitable on February 13, 2026. Further, although a degree of assurance that the discharge will occur that falls short of inevitability may be sufficient to confer good cause to quit,¹ the likelihood of discharge on February 13, 2026 was insufficiently probable to place claimant in a situation of gravity.

Furthermore, the record contains no evidence to suggest that a discharge would have harmed claimant's future job prospects, or that those prospects would have been harmed more appreciably by claimant being discharged than by her quitting work. In *McDowell*, the claimant, a teacher, had served on hiring committees and had observed instances in which the deciding factor in declining to hire an applicant was a past discharge on the applicant's record. 348 Or. at 615. Here, claimant was a graphic designer, and she carried out graphic design work for the employer along with separate clerical tasks. Though it is logical to theorize that a discharge would have harmed claimant's ability to find a new job, it is not evident on this record that quitting to avoid the potential discharge actually benefited claimant, since it is possible that her future job prospects were equally harmed by quitting work as they would have been by a discharge.

The record therefore shows that the facts of this case differ from those of *McDowell*, and claimant did not establish that she voluntarily left work with good cause based on an application of the holding of that case.

For the foregoing reasons, claimant voluntarily quit work without good cause. Claimant is disqualified from receiving benefits effective February 8, 2026.

DECISION: Order No. 26-UI-330213 is affirmed.

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

DATE of Service: July 15, 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.

¹ See *Dubrow v. Employment Dep't.*, 242 Or App 1, 8, 252 P.3d 857, 869 n.2 (2011), citing *McDowell*, 348 Or 605, 619, 236 P.3d 722, 730 n.9 (stating that "a future discharge need not be certain before a resignation to avoid a discharge can qualify as good cause"; likelihood is not dispositive of the issue but it does bear on the gravity of the situation).

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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

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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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