

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0584

Affirmed
No Disqualification

PROCEDURAL HISTORY: On April 13, 2026, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged for misconduct, and therefore was disqualified from receiving unemployment insurance benefits effective December 7, 2025 (decision # L0016916653).¹ Claimant filed a timely request for hearing. On May 13, 2026, ALJ Enyinnaya conducted a hearing, and on May 19, 2026 issued Order No. 26-UI-330692, reversing decision # L0016916653 by concluding that claimant was discharged, but not for misconduct, and therefore was not disqualified from receiving unemployment insurance benefits based on the work separation. On June 8, 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 claimant 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) Murphy Financial Partners, Inc. employed claimant as a client administrative assistant at their financial advising firm from March 10, 2025 through December 11, 2025.

(2) By policy, the employer prohibited employees from sharing clients' personally-identifying information ("PII") via standard email to any external email addresses, including those of clients. Instead, any communications with clients that included PII was required to be transmitted via the

¹ Decision # L0016916653 stated that claimant was denied benefits from December 7, 2025 to February 13, 2027. However, decision # L0016916653 should have stated that claimant was disqualified from receiving benefits beginning Sunday, December 7, 2025 and until she earned four times her weekly benefit amount. *See* ORS 657.176.

employer's secure messaging service. The employer trained claimant on the use of this system shortly after hire, and claimant was generally aware of the policy. A significant percentage of the employer's emails included client PII.

(3) Throughout the course of her employment, the employer had concerns about claimant's work performance.

(4) In or around the week of November 17, 2025, the employer assigned to claimant a mailing project, to be worked on with another administrative assistant, "T." Claimant and T worked together to complete the project as a "traditional mailing." Transcript at 21. On November 20, 2025, approximately 30 minutes before the mailing was to be sent out, the employer told claimant that they instead wanted her to send it using the mail merge feature in Microsoft Office. Claimant was not trained on creating mail merges, and T, who was trained on them, was unavailable at the time. As such, claimant quickly attempted to teach herself how to create a mail merge. As part of the process, the training information she was following directed her to create a "forwarding process." Transcript at 15. Following this, claimant created a rule in Outlook which would forward all of her incoming work emails to her personal email address. Claimant intended the rule to be temporary as part of her testing process, and likewise intended to delete it almost immediately. She did not believe that the forwarding rule would violate the employer's policy. Shortly after she created the rule, however, claimant had an "emergency doctor's appointment," and left the office early before deleting the rule. Transcript at 16.

(5) Later on November 20, 2025, the employer's compliance team detected the forwarding rule that claimant had set up, as their system had flagged it as a security breach. The rule was deleted before any emails were actually forwarded to claimant's personal email address.

(6) On November 24, 2025, the firm's owner and one of the financial advisors met with claimant to discuss the forwarding rule. During the meeting, claimant explained that she had created the rule as a "temporary testing practice" as part of the process of learning how to create a mail merge. Transcript at 17. After the meeting, the employer investigated the matter further. The employer subsequently determined that claimant's explanation as to why she created the forwarding rule did not make sense, owing in part to the number of steps required to create such a rule.

(7) On or around November 25, 2025, claimant began a medical leave of absence.

(8) In early December 2025, the employer decided to discharge claimant. On December 11, 2025, after having prepared claimant's final paycheck, the employer discharged claimant while she was still on medical leave. The employer discharged claimant due to her creation of the forwarding rule, as well as other concerns that claimant's employment was "not going smoothly." Transcript at 10. Claimant had never previously engaged in other conduct similar to the creation of the forwarding rule.

CONCLUSIONS AND REASONS: Claimant was discharged, 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).

The employer discharged claimant due to her creation of the email-forwarding rule on November 20, 2025, as well as general concerns that claimant’s employment was “not going smoothly.” As a preliminary matter, the record shows that claimant’s creation of the forwarding rule was the proximate cause of the employer’s decision to discharge her. At hearing, the employer’s witness testified that the creation of the forwarding rule was an “egregious situation that put [their] business in harm,” and that this situation was what led the employer to discharge claimant. Transcript 6. By contrast, while the employer asserted at hearing that they had had other concerns regarding claimant’s performance, they gave no details about these concerns. Furthermore, claimant began a medical leave of absence shortly after the creation of the forwarding rule, and the record does not show that any other specific concerns about claimant’s conduct arose after November 20, 2025. As such, the creation of the forwarding rule was the proximate cause of claimant’s discharge, and is therefore the proper focus of the misconduct analysis.²

The employer has not met their burden to show that claimant’s creation of the forwarding rule was misconduct. The record does not show that the employer prohibited the creation of such a rule itself. Nevertheless, the result of the rule, had it not been caught in time, would have been to forward all of claimant’s work email to her personal email address, and therefore would likely have violated the employer’s prohibition on sharing any client PII to any external email addresses via standard email. At hearing, claimant testified that she was not aware that her conduct violated the employer’s policy. Transcript at 16. Nevertheless, claimant had reason to know that the rule she created, were it permitted to run, would have violated the employer’s policy, particularly as she had been trained on that policy around the time of hire.

The parties’ testimony differed as to claimant’s stated reasons for creating the forwarding rule. The employer’s witness testified that during the November 24, 2025 meeting, when claimant was asked why she had created the rule, “there was no clear answer given,” and claimant “said either it was a mistake, or she accidentally did it, or there was just no reason why that happened.” Transcript at 9. It is not clear whether the witness intended to convey here that claimant variously gave *all* of these answers, or simply that the witness could not recall exactly what claimant said and was generalizing as to what claimant might have said. By contrast, claimant testified that she told the employer during the meeting that she had created the rule in order to help herself learn how to create a mail merge. Transcript at 17. Neither party offered corroborating evidence to support their version of what claimant stated in the meeting. As such, the evidence on this point is, at best, equally balanced. Because the employer bears the burden of

² 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).

proof in a discharge case, claimant's account is afforded more weight here, and the facts have been found accordingly.

Determining what explanation claimant gave to the employer is relevant to the analysis because of the employer's assertion that claimant's creation of the mail-forwarding rule did not make sense in the context of her attempting to learn how to create a mail merge. The steps necessary for the creation of a mail merge are not described in detail in the record but the record suggests that creating a mail-forwarding rule was not necessary to create a mail merge. While the employer's witness did not explicitly state as much during the hearing, she appeared to imply that claimant might have had some other motive for setting up a rule that would forward all of her work email, including client PII, to claimant's personal email address.

However, claimant asserted at hearing, as she did during the November 24, 2025 meeting, that she created the mail-forwarding rule as part of her self-training on how to create mail merges. Transcript at 15–16. Whatever suspicions the employer might have held regarding claimant's motives, the record lacks evidence to show that claimant had any motive for creating the rule other than attempting to learn how to create a mail merge. As such, the preponderance of the evidence supports claimant's assertion that she created the rule for that purpose.

As noted above, claimant had reason to know that the mail-forwarding rule would have likely violated the employer's policy regarding the transmission of client PII if the rule had been allowed to run. Because the record suggests that the creation of this rule was not actually necessary for claimant to learn how to create a mail merge, and in light of the potential the rule had for disclosing protected information, claimant's creation of the rule was negligent. However, for her conduct to have been *wantonly* negligent, she would have had to have engaged in that conduct without regard for the consequences of her actions. The record does not show that to be the case. Rather, it shows that claimant was, more likely than not, engaged in an effort to learn how to create a mail merge under a very short deadline; that she created the rule as part of that effort, even if she was mistaken about its necessity; and that she only left it in place because of her unexpected early departure due to a medical issue. Thus, while claimant's creation of the rule—or failure to immediately de-activate it before leaving the office—was negligent, claimant did not act without regard for the consequences of her actions. As such, claimant was not discharged for misconduct.

For the above reasons, claimant was discharged, but not for misconduct, and therefore is not disqualified from receiving unemployment insurance benefits based on the work separation.

DECISION: Order No. 26-UI-330692 is affirmed.

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

DATE of Service: July 22, 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 الاستئناف 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

Phone: (503) 378-2077 | 1-800-734-6949 | Fax: (503) 378-2129 | TDD: 711

Email: appealsboard@employ.oregon.gov

Website: www.Oregon.gov/employ/pages/employment-appeals-board.aspx

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