

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0604

Affirmed
No Disqualification

PROCEDURAL HISTORY: On May 8, 2026, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged for misconduct and was therefore disqualified from receiving unemployment insurance benefits effective February 22, 2026 (decision # L0017533374).¹ Claimant filed a timely request for hearing. On June 11, 2026, ALJ Enyinnaya conducted a hearing, and on June 12, 2026 issued Order No. 26-UI-332645, reversing decision # L0017533374 by concluding that claimant was discharged, but not for misconduct, and was not disqualified from receiving benefits based on the work separation. On June 17, 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 June 17, 2026 or July 8, 2026 arguments to claimant as required by OAR 471-041-0080(2)(a) (May 13, 2019). The July 8, 2026 argument also contained information, in the form of videos, 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).

The employer asserted that the hearing proceedings were unfair or the ALJ was biased. EAB reviewed the entire hearing record, which shows that the ALJ inquired fully into the matters at issue and gave all parties reasonable opportunity for a fair hearing as required by ORS 657.270(3) and (4), and OAR 471-040-0025(1) (August 1, 2004).

FINDINGS OF FACT: (1) Seven Arrows Logistics, LLC employed claimant as a delivery driver from December 15, 2025 through February 24, 2026.

¹ Decision # L0017533374 stated that claimant was denied benefits from February 22, 2026 to November 21, 2026. However, decision # L0017533374 should have stated that claimant was disqualified from receiving benefits beginning Sunday, February 22, 2026 and until he earned four times his weekly benefit amount. *See* ORS 657.176.

(2) The employer expected their delivery drivers to obey all traffic laws, and claimant understood this expectation. The employer's vehicles were equipped with camera systems that automatically recorded video clips of suspected violations and forwarded them to the employer for review.

(3) On February 24, 2026, while driving through an apartment complex, claimant passed a stop sign without coming to a stop because the sign was obscured by a bush and he did not notice it before he passed it. The vehicle's camera system sent a video clip of this incident to the employer. While searching for an apartment within the complex, claimant stopped his vehicle in an empty parking lot to check the apartment number on his phone and reorient himself. After checking the address, claimant began turning the vehicle around within the parking lot before securing the phone in a dashboard holder. The vehicle's movement while claimant had the phone in his hand triggered the camera system, which sent a video clip to the employer.

(4) The employer immediately reviewed both videos, concluded that claimant had violated a traffic law in each incident, and notified him by phone that he was discharged.

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).

ORS 811.260(15) provides:

A driver approaching a stop sign shall stop at a clearly marked stop line, but if none, before entering the marked crosswalk on the near side of the intersection or, if there is no marked crosswalk, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After stopping, the driver shall yield the right of way to any vehicle in the intersection or approaching so close as to constitute an immediate hazard during the time when the driver is moving across or within the intersection. This subsection does not apply to a person operating a bicycle.

ORS 811.265(1)(b) provides, "A person commits the offense of driver failure to obey a traffic control device if the person drives a vehicle and the person. . . [f]ails to obey any specific traffic control device described in ORS 811.260 in the manner required by that section."

ORS 811.507 provides, in relevant part:

(1) As used in this section:

(a) (A) “Driving” means operating a motor vehicle on a highway or premises open to the public, and while temporarily stationary because of traffic, a traffic control device or other momentary delays.

(B) “Driving” does not include when the motor vehicle has stopped in a location where it can safely remain stationary and:

(i) Is pulled over on the side of, or is pulled off, a roadway [or]

(ii) Is in a designated parking space[.]

* * *

* * *

(2) A person commits the offense of driving a motor vehicle while using a mobile electronic device if the person, while driving a motor vehicle on a highway or premises open to the public:

(a) Holds a mobile electronic device in the person’s hand; or

(b) Uses a mobile electronic device for any purpose.

* * *

The employer discharged claimant for having violated two traffic laws on February 24, 2026. The employer reasonably expected that their delivery drivers would obey all traffic laws, and claimant understood this expectation. Claimant did not dispute that he violated the laws alleged. However, while the laws at issue, ORS 811.265(1)(b) and ORS 811.507(2)(a), do not require a person to act with a specific knowledge or intent to be guilty of violating them, for purposes of the discharge analysis the employer must prove that claimant violated the laws willfully or with wanton negligence to be considered misconduct.

Regarding claimant’s violation of ORS 811.265(1)(b), claimant testified that the stop sign was “behind an overgrown rhododendron bush” and that he “didn’t even see it at the time.” Audio Record at 29:19. Regarding claimant’s violation of ORS 811.507(2)(a), claimant was having difficulty locating an apartment due to the layout of the complex and the length of the apartment numbers. Claimant testified that he stopped the vehicle in an empty parking lot to check the apartment number and reorient himself, and after doing so, he began to turn the car around. Audio Record at 32:07. Claimant explained, “I think I still had the phone in my hand, is why I got [an] infraction [from the camera system].” Audio Record at 32:24. Claimant testified that under these circumstances, he did not think at the time that his conduct would violate the employer’s policy requiring adherence to traffic laws. Audio Record at 32:57.

The employer did not offer the video clips as evidence at the hearing, and their witness did not provide a detailed description of what the employer believed was depicted in the clips, other than to say they showed claimant violating the laws alleged. In weighing this evidence, which is at most equally

balanced, the employer failed to rebut by a preponderance of the evidence claimant's detailed testimony regarding how each incident occurred, and therefore the facts have been found in accordance with claimant's account. As such, the employer has not met their burden to show that claimant acted consciously and without regard for the consequences of his actions in passing the stop sign without stopping, and his failure to notice the sign therefore amounted to only ordinary negligence.

Regarding the violation of ORS 811.507(2)(a), claimant stopped the vehicle in a designated parking area before retrieving and using his phone, demonstrating that he was attempting to comply with the law and was not indifferent to the consequences of his actions or of the employer's interests. Although claimant then violated the law by briefly driving the vehicle through the parking lot while still holding the phone in his hand, the record does not show that claimant necessarily made a conscious decision to do so, and that he knew or should have known that briefly holding the phone while it was not in use would probably result in a violation of the law, and therefore the employer's policy. As such, the employer has not met their burden to show that claimant's actions regarding this violation amounted to more than ordinary negligence. Accordingly, because the employer has not shown by a preponderance of the evidence that claimant violated either traffic law willfully or with wanton negligence, claimant's discharge was not for misconduct.

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

DECISION: Order No. 26-UI-332645 is affirmed.

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

DATE of Service: July 29, 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.

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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

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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