

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0620

Affirmed
No Disqualification Weeks 10-26 through 11-26
Disqualification Effective Week 12-26

PROCEDURAL HISTORY: On May 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 and was disqualified from receiving benefits from March 8, 2026 to January 16, 2027 (decision # L0017552799).¹ Claimant filed a timely request for hearing. On June 4, 2026, ALJ S. Lee conducted a hearing, and on June 12, 2026 issued Order No. 26-UI-332718, modifying decision # L0017552799 by concluding that the employer discharged claimant, but not for misconduct, within 15 days of claimant's planned voluntary leaving without good cause, and therefore was not disqualified from receiving benefits for the weeks from March 8 through 21, 2026 (weeks 10-26 and 11-26), but disqualified from receiving benefits effective March 22, 2026. On June 25, 2026, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) AE Retail West LLC employed claimant as a sales associate at their American Eagle clothing store from October 28, 2025 until March 8, 2026.

(2) Claimant suffered from lifelong bipolar disorder and, in 2012, suffered a head injury that left her in a coma for several days, and had lasting effects thereafter. At the time of her employment, claimant was not receiving medical attention or counseling for her bipolar disorder due to a lack of access to care in the town in which she lived, and limited transportation options.

¹ Decision # L0017552799 stated that claimant was denied benefits from March 8, 2026 to January 16, 2027. However, decision # L0017552799 should have stated that claimant was disqualified from receiving benefits beginning March 8, 2026 and until she earned four times her weekly benefit amount. See ORS 657.176.

(3) Working as a sales associate at the employer's store involved use of tablets, handheld devices, and cash registers that used the latest technology. Claimant was not experienced in the use of technology, and, at the time of hire, informed the employer that this was the case.

(4) When the employer hired claimant, they gave her an 8-hour training on using the various types of technology, but that was not sufficient for her to become proficient with the technology. Claimant typically worked only four hours per week and therefore was not scheduled to work often enough to become comfortable with using the technology.

(5) During the 2025-2026 holiday season, the employer often assigned claimant to work in Room 1, which was a section of the store in which customer interaction and sales were prioritized and familiarity with technology was less important. The employer was pleased with claimant's performance in Room 1, and the store manager commented that claimant may have found her niche working there. There were other roles at the employer's store that also called for less familiarity with technology, such as greeting customers as they entered the store and working in the fitting room.

(6) After the holidays, claimant was moved out of Room 1 and back to the regular sales associate duties. Claimant struggled with the technological aspects of the job and asked for more training from the store manager. When claimant asked the store manager for additional training, the manager at times made disrespectful or belittling comments such as asking if claimant could read, or stating that she had already taught claimant something and claimant "can't get it." Transcript at 14.

(7) On March 5, 2026, claimant called and spoke with the store manager. Claimant asked why she was not being scheduled for more hours of work and why she was being treated in a disrespectful manner. During the call, claimant and the store manager discussed that during her next scheduled shift on March 8, 2026, claimant would submit a letter giving notice of her intent to resign in two weeks.

(8) As of the March 5, 2026 phone call, claimant was scheduled to work on March 8 and 21, 2026, with each shift being a four-hour shift. On March 8, 2026, claimant worked what would be her final shift for the employer. At the conclusion of her shift that day, claimant left a letter of resignation in the store manager's office.

(9) Claimant decided to resign because her difficulty becoming proficient in the technological aspects of her job caused her emotional distress. Another reason claimant resigned was that the store manager's failure to provide more training and disrespectful and belittling comments when claimant asked for assistance caused claimant emotional distress.

(10) Claimant's resignation letter stated, among other things, "Gotta Quit!", but did not explicitly state when the resignation was effective. Exhibit 1 at 2. Claimant had intended the letter to give notice of her intent to resign in two weeks, on March 22, 2026, as had been discussed during the March 5, 2026 phone conversation with the store manager. Claimant intended to work her final scheduled shift on March 21, 2026.

(11) The employer treated the letter as conveying that claimant was resigning effective immediately. On March 21, 2026, claimant called the store to confirm she was working that day and was told she had been removed from the schedule.

(12) The employer had an “open door” policy, conveyed during the onboarding process and in the employee manual, in which employees were encouraged to contact the employer’s district manager or human resources (HR) department to request assistance. Transcript at 34. The contact information for the district manager and HR department were contained in the employee manual and posted in the break room. The employer would have considered comments directed to claimant regarding whether she could read to be inappropriate. If the issue had been raised with them, the employer’s district manager or HR department would have required the store manager to stop directing such comments to claimant.

(13) Claimant was aware that the contact information for the district manager and HR department were available in the break room. However, prior to quitting, claimant did not contact the district manager or HR department to request additional training, to request assignment to work with fewer technological aspects such as the work she had performed in Room 1, or to request that they require the store manager to stop belittling her when she asked for additional training on the technology. Claimant did not do so because she “did not feel that was [her] place,” and she had been raised that, “You don’t go above your boss.” Transcript at 21.

CONCLUSIONS AND REASONS: The employer discharged claimant, not for misconduct, within 15 days of claimant’s planned voluntary leaving without good cause.

Nature of the Work Separation. A work separation occurs when a claimant or employer ends the employer-employee relationship.

If claimant could have continued to work for the employer for an additional period of time, the work separation is a voluntary leaving. OAR 471-030-0038(2)(a) (September 22, 2020). If claimant was willing to continue working for the employer for an additional period of time, but the employer did not allow claimant to do so, the separation is a discharge. OAR 471-030-0038(2)(b).

The work separation was a discharge that occurred on March 8, 2026. On that date, claimant gave the employer notice of her intent to resign, which did not state an explicit date that the resignation was effective, but should be read in the context of claimant’s March 5, 2026 phone conversation with the store manager. In that conversation, claimant and the store manager discussed that during her next scheduled shift on March 8, 2026, claimant would submit a letter giving notice of her intent to resign in two weeks. This is established by an account authored by an employee who overheard the conversation, which was among the documentary evidence proffered by the employer and admitted into evidence. *See* Exhibit 1 at 3 (“[Claimant] stated that she wanted to put in her two weeks notice at which point [the store manager] directed her to do so by bringing in a written notice on her next scheduled shift. . . . She told [claimant] that she could speak with her further on her next scheduled shift at which point [claimant] could also turn in her two weeks notice, she then ended the call.”). Therefore, the March 8, 2026 resignation letter, while containing no explicit effective date, should have been understood in light of the resignation date the parties contemplated during the March 5, 2026 phone call, and thus, as conveying that the resignation was effective in two weeks from March 8, 2026, which was March 22, 2026.

However, the employer did not allow claimant to work through her notice period, treating the resignation letter as conveying that claimant was resigning effective immediately, and removing claimant’s March 21, 2026 shift from the work schedule. Because claimant was willing to continue

working for the employer until March 22, 2026, but was not allowed to do so by the employer, the work separation was a discharge that occurred on March 8, 2026.

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 March 8, 2026, after treating claimant’s resignation letter as conveying that claimant was resigning effective immediately. The record fails to show that the employer discharged claimant because she had engaged in a willful or wantonly negligent violation of the standards of behavior the employer had the right to expect of her, or a disregard of the employer’s interests. Accordingly, the employer did not discharge claimant for misconduct under ORS 657.176(2)(a).

ORS 657.176(7). Next, it is necessary to assess whether ORS 657.176(7) applies to this case. Under that statutory section, 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, not for misconduct, on March 8, 2026, which was within 15 days of claimant’s planned leaving on March 22, 2026. Therefore, whether ORS 657.176(7) applies depends on whether claimant’s planned leaving was 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 Depart.*, 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 Depart.*, 348 Or 605, 612, 236 P3d 722 (2010). Claimant had bipolar disorder and the lasting effects following a head injury, permanent or long-term “physical or mental impairments” as defined at 29 CFR §1630.2(h). A claimant with an impairment who quits work must show that a reasonable and prudent person with the characteristics and qualities of an individual with such an impairment would not have continued to work for their employer for an additional period of time.

Claimant's planned leaving was without good cause. Claimant faced a grave situation because her difficulty becoming proficient in the technological aspects of her job, and the store manager's failure to provide more training and disrespectful comments when claimant asked for assistance caused claimant emotional distress. These difficulties would place a person with the characteristics and qualities of an individual with an impairment such as claimant's in a situation of gravity.

However, claimant's planned leaving was without good cause because she failed to pursue the reasonable alternative of contacting the district manager or HR department to request additional training, to request assignment to work with fewer technological aspects such as the work she had performed in Room 1, or to request that they require the store manager to stop belittling her when she asked for additional training. At hearing, the employer's witness testified that there were "definitely options that [they] could have done to help [claimant] with the technology" had claimant contacted the district manager or HR department, and that the employer would have "continuously go[ne] over the processes with [claimant]." Transcript at 41, 38. The record reflects that claimant's limited proficiency with technology was profound, however, and it may have been that claimant's difficulties with technology would have remained even after substantial additional training efforts.

Nevertheless, contacting the district manager or HR department would not have been fruitless. Rather, the weight of the evidence shows that the emotional distress claimant experienced would have been addressed by requesting assistance via those channels because the district manager or HR department would have required the store manager to stop making belittling comments, and, if need be, placed claimant in a role that called for less familiarity with technology. This is the case because, at hearing, the employer's witness testified that the store manager's belittling comments toward claimant were inappropriate and, if made aware, the district manager or HR department would have addressed them. Transcript at 35. The witness also testified that if the district manager or HR department had been made aware of claimant's struggles with technology, the management team would have devised "a working environment that's great for [claimant]." Transcript at 37-38. This, coupled with claimant's testimony that she been successful working in Room 1 and the employer witness's testimony that roles existed working as store greeter and in the fitting room, supports the inference that claimant would have been offered roles that called for less familiarity with technology, such as working in Room 1, where claimant had previously performed well, or working in the fitting room or greeting customers. Transcript at 17-19, 33.

Therefore, because claimant failed to pursue reasonable alternatives to leaving work, claimant's March 22, 2026 planned voluntary leaving was without good cause. Thus, because the employer discharged claimant, but not for misconduct, within 15 days prior to the date claimant planned to voluntarily leave work without good cause, ORS 657.176(7) applies to this case. Accordingly, ORS 657.176(7) requires that claimant be disqualified from receiving unemployment insurance benefits effective March 22, 2026 (week 12-26). Claimant is *not* disqualified from receiving benefits for the weeks of March 8 through 21, 2026 (weeks 10-26 and 11-26).

DECISION: Order No. 26-UI-332718 is affirmed.

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

DATE of Service: August 7, 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 دستورالعمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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