

**EMPLOYMENT APPEALS BOARD DECISION**  
**2026-EAB-0627**

*Reversed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On May 19, 2026, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit work without good cause and therefore was disqualified from receiving unemployment insurance benefits effective August 1, 2025 (decision # L0017611936). Claimant filed a timely request for hearing. On June 17, 2026, ALJ Murdoch conducted a hearing, and on June 23, 2026, issued Order No. 26-UI-333328, affirming decision # L0017611936.<sup>1</sup> On June 28, 2026, claimant filed an application for review with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** Claimant did not state that she provided a copy of her argument to the employer 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 claimant's reasonable control prevented her 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) HFAC Operations LLC, also known as the Hawthorn Farm Athletic Club, employed claimant from April 8, 2025 until August 1, 2025. Claimant worked as a Kids Central associate, which involved supervising and engaging children in the employer's childcare area. Claimant's work as a Kids Central associate was physically strenuous.

(2) Claimant had a long-term anemia condition.

<sup>1</sup> Although Order No. 26-UI-333328 stated that it modified decision # L0017611936, it affirmed that decision because decision # L0017611936 stated that claimant was denied benefits "beginning August 1, 2025." The order under review had the same effect, stating, "Claimant is subject to disqualification from benefits under ORS 657.176(2)(c), effective August 1, 2025, until requalified under Employment Department law."

(3) On May 22, 2025, claimant underwent dental surgery by having a tooth extracted. Claimant was off work for a period thereafter, and returned to work on June 16, 2025. Claimant worked the remainder of her scheduled shifts in June 2025. In early July 2025, claimant had a planned vacation and did not work. Claimant then worked a few shifts in mid-July 2025. The last shift claimant worked was on July 21, 2025.

(4) At some point following her dental surgery, claimant developed an infection and other complications that exacerbated her anemia and made it difficult for her to continue to perform her job tasks. Claimant found that her health status made it “just hard to even have a daily lifestyle,” and determined that she should quit working for the employer because she could not physically perform the work. Audio Record at 12:33

(5) On August 1, 2025, claimant informed the employer that she was resigning with immediate effect because of her impaired health status.

(6) Prior to quitting, claimant did not ask the employer to accommodate her health status by changing her job tasks. Claimant did not do so because the job was physically strenuous, and there was only one other Kids Central associate to do the work, so claimant did not believe the job could be modified to accommodate her needs while also fulfilling the essential functions of the job.

(7) Also, prior to quitting, claimant did not ask the employer for a leave of absence to enable her to potentially recover from the exacerbated anemia and return to work when her health condition improved. Had she done so, the employer would have looked into the matter, but would not have been able to provide a leave of absence. The employer had no leave of absence policy beyond the leave types required by state and federal law, and claimant did not qualify for leave under state or federal law due to her short tenure with the employer and other factors.

**CONCLUSIONS AND REASONS:** Claimant voluntarily quit work with 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 anemia, a permanent or long-term “physical or mental impairment” 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.

The order under review concluded that claimant quit work without good cause because she had failed to pursue the reasonable alternative of requesting a leave of absence. Order No. 26-UI-333328 at 2. The record does not support this conclusion, as the record shows that requesting a leave of absence would have been futile.

Claimant quit work with good cause. Claimant faced a grave situation because she had a long-term anemia condition, her work as a Kids Central associate was physically strenuous, and the infection and other complications resulting from her dental surgery exacerbated her anemia to the extent that she could not physically perform the Kids Central associate work. A reasonable and prudent person with the characteristics and qualities of an individual with claimant's impairment would not have continued to work for the employer under those circumstances.

No reasonable alternatives to quitting work were available to claimant. Prior to quitting, claimant did not ask the employer to accommodate her health status by changing her job tasks. However, at hearing, claimant credibly explained that she did not do so because the Kids Central associate work was strenuous, and there was only one other Kids Central associate to do the work, and claimant did not believe the job could be modified to accommodate her needs while also fulfilling the essential functions of the job. Audio Record at 13:59 to 14:54. The employer's witness did not rebut this testimony. Accordingly, the record shows that asking the employer to modify claimant's job tasks would have been fruitless because the job could not be modified to accommodate claimant's needs while also fulfilling the job's essential functions.

Also, prior to quitting, claimant did not ask the employer for a leave of absence to enable her to potentially recover from the exacerbated anemia and return to work when her health condition improved. However, had she done so, the employer would have looked into it, but would not have been able to provide a leave of absence. At hearing, the employer's witness testified that the employer had no leave of absence policy beyond the leave types required by state or federal law. Audio Record at 19:53 to 20:18. With an employment tenure of only approximately 115 days, claimant did not work long enough for the employer to qualify for leave under the federal Family and Medical Leave Act (FMLA) or the state Oregon Family Leave Act (OFLA), which require time worked for the employer of 12 months and 180 days, respectively, before the leave may be taken.<sup>2</sup>

Further, given claimant's short tenure, unknown compensation rate, and unknown number of work shifts per week, the record fails to show that claimant earned at least \$1,000 in wages in her base year or alternate base year preceding August 1, 2025, the date she presumably would have taken a leave instead of quitting, such as is necessary to qualify for paid leave benefits under the Paid Leave Oregon program.<sup>3</sup> Accordingly, the record shows that asking for a leave of absence would have been futile because the employer did not have their own leave of absence program, and claimant did not qualify for leave under state or federal law.

For these reasons, claimant voluntarily left work with good cause and therefore is not disqualified from receiving benefits based on the work separation.

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<sup>2</sup> See "OFLA FMLA Chart," available at <https://paidleave.oregon.gov/employees/overview.html>, scroll to the middle of the web page. Moreover, as FMLA and OFLA leave are not compensated, taking a leave of absence under either of those provisions would have been unlikely to be regarded as a reasonable alternative to leaving work. See *Sothras v. Employment Division*, 48 Or App 69, 616 P2d 524 (1980) (despite being on an unpaid leave of absence for more than a month claimant remained unable to return to work; the court held that "a protracted, unpaid leave of absence is not a 'reasonable alternative' to leaving work and being unemployed; indeed it is not an alternative at all.").

<sup>3</sup> See "OFLA FMLA Chart," available at <https://paidleave.oregon.gov/employees/overview.html>, scroll to the middle of the web page.

**DECISION:** Order No. 26-UI-333328 is set aside, as outlined above.

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

**DATE of Service:** August 7, 2026

**NOTE:** This decision reverses the ALJ's order denying claimant benefits. Please note that in most cases, payment of benefits owed will take about a week for the Department to complete.

**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 باتباع 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**

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