

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0631

Reversed
Disqualification Effective Week 13-26

PROCEDURAL HISTORY: On May 28, 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 effective March 29, 2026 (decision # L0017863831). Claimant filed a timely request for hearing. On June 17, 2026, ALJ Murray conducted a hearing and issued Order No. 26-UI-333080, reversing decision # L0017863831 by concluding that claimant quit work with good cause and was not disqualified from receiving benefits based on the quit. On July 1, 2026, the employer filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: The employer submitted written arguments on July 1 and July 28, 2026. EAB did not consider the employer's July 1, 2026 argument because they 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 employer's July 28, 2026 argument 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. Under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB considered only information received into evidence at the hearing. EAB considered the parts of the employer's July 28, 2026 argument that were based on the hearing record.

Claimant submitted written arguments on July 27 and July 28, 2026. Both of claimant's arguments 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. Under ORS 657.275(2) and OAR 471-041-0090, EAB considered only information received into evidence at the hearing. EAB considered the parts of claimant's July 27 and 28, 2026 arguments that were based on the hearing record.

FINDINGS OF FACT: (1) BodyKore employed claimant, most recently as their director of operations, from February 2025 until March 22, 2026. Claimant began working for the employer in other roles and

eventually was promoted to director of operations. The employer was a small business that distributed personal fitness equipment. During claimant's tenure, the employer had five to seven employees.

(2) When claimant initially applied to work for the employer, the job listing contained information implying that health insurance would be offered. Claimant also believed that the employer's owner had stated during her initial job interview that the employer would offer her health insurance. The employer believed that they did not express during claimant's interview that health insurance would be offered, and that claimant had indicated during her interview that she would be covered by her husband's health insurance. Throughout claimant's employment, the employer did not provide claimant with health insurance benefits. The employer also did not provide any other employees with health insurance benefits.

(3) A few days before March 20, 2026, one of the employer's warehouse employees sustained a minor injury to his finger while breaking down the employer's booth at a trade show. The employee did not seek medical attention for the injury. Claimant was the employee's supervisor, and the employee told claimant about the injury. Claimant communicated to the employer's owner and human resources (HR) director that she believed the appropriate next step would be to file a worker's compensation claim on behalf of the employee. Claimant prepared the claim and needed final approval from the owner before submitting it.

(4) On the morning of March 20, 2026, the owner told claimant not to file the worker's compensation claim, and that the employer would instead settle the matter with the employee privately and no claim needed to be filed. The employee told the employer that he did not need to file a worker's compensation claim. The employer paid the employee a sum of money for the time he took off work due to the injury, and the HR director accounted for this compensation in the employer's payroll records. Claimant felt that to resolve the matter without filing a worker's compensation claim was illegal or unethical and amounted to paying the employee "under the table[.]" Transcript at 10.

(5) On March 20, 2026, claimant left a letter on her desk giving notice of her intent to resign effective April 3, 2026. After the workday ended on March 20, 2026, claimant texted the HR director that she had left her resignation notice on her desk. The HR director retrieved the letter from claimant's desk and gave the letter to the owner.

(6) Claimant decided to quit working for the employer effective April 3, 2026 because the employer did not offer her health insurance benefits. Another factor in her decision to quit effective April 3, 2026 was that she disagreed with the employer's decision to resolve the employee's workplace injury without filing a worker's compensation claim. Claimant was also dissatisfied with other aspects of the job, such as working with a sales team she thought was incompetent and not seeing "growth or career development for [her]self" in the job. Transcript at 10.

(7) After receiving claimant's resignation notice on March 20, 2026, the owner tried to contact claimant to discuss the matter, but could not reach her. On March 22, 2026, the employer "rejected" claimant's notice period and ended claimant's employment effective that day. Transcript at 17.

(8) On March 22, 2026, after the owner had ended claimant's employment, claimant noticed that the security settings of her personal email account indicated that the account had been logged into that day

via a Windows device in the town where the employer's office was located. Based on this information, claimant believed the employer had improperly accessed her personal email account. However, during claimant's employment, she had used her work computer at the employer's office to log in to her personal email account. The employer believed that any indication that they had accessed claimant's account on March 22, 2026 was due to removing all of claimant's permissions from her work computer that day, which would have included claimant's personal email if claimant had kept herself logged in to the account on her work computer.

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

The order under review found that claimant quit work on March 20, 2026 and concluded that claimant's voluntary leaving was with good cause. Order No. 26-UI-333080 at 2-3. The record does not support the finding that claimant work on that date or the conclusion that the leaving would have been for good cause. The record shows that, on March 20, 2026, claimant gave notice of her intent to resign effective April 3, 2026, that the employer discharged claimant, but not for misconduct, on March 22, 2026, and that the discharge was within 15 days of claimant's planned voluntary leaving without good cause on April 3, 2026.

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 22, 2026. Prior to that date, on March 20, 2026, claimant had given notice of her intent to resign effective April 3, 2026. Thereafter, the employer's owner tried without success to contact claimant to discuss the matter. On March 22, 2026, after having failed to contact claimant, the employer rejected claimant's notice period and ended claimant's employment effective that day. Because claimant was willing to continue working for the employer until April 3, 2026, but was not allowed to do so by the employer, the work separation was a discharge that occurred on March 22, 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 22, 2026 because claimant had given notice on March 20, 2026 of her intent to resign effective April 3, 2026, and the owner had thereafter tried to discuss the matter with claimant without success. Neither claimant's giving notice of her intent to resign nor the fact that the owner was unable to communicate with claimant about same were proven to be willful or wantonly negligent violations of the employer's expectations. 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, but not for misconduct, on March 22, 2026, which was within 15 days of claimant's planned leaving on April 3, 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 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) "[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).

Claimant's planned leaving was without good cause. Claimant decided to quit working for the employer effective April 3, 2026 because the employer did not offer her health insurance benefits. Another factor in her decision to quit effective that day was that she disagreed with the employer's decision to resolve the employee's workplace injury without filing a worker's compensation claim. Claimant was also dissatisfied with other aspects of the job, such as working with a sales team she thought was incompetent and not seeing "growth or career development for [her]self" in the job. Transcript at 10.

First, as to health insurance benefits, the employer's failure to offer them to claimant did not present her with a situation of gravity. The record fails to show that the employer had any legal duty to provide claimant with health insurance. The employer had only five to seven employees during claimant's tenure, and did not provide health insurance to any of them. It is regrettable that when claimant initially applied to work for the employer, the job listing contained information implying that health insurance would be offered. However, at hearing, the employer's witness disputed that the employer had expressed during claimant's job interview that they would offer health insurance to claimant. The witness testified, instead, that she understood claimant to have stated during her interview that she would be covered by her husband's health insurance. Transcript at 16. Further, the employer had declined to provide claimant

with health insurance throughout her employment. Given that not receiving health insurance had been the status quo during the preceding 13 months of her tenure, it is not evident that, at the time of claimant's planned leaving, continuing that arrangement would place her in a situation of gravity. Finally, claimant would not benefit from quitting her job due to the employer not offering her health insurance. *See Oregon Public Utility Commission v. Employment Dep't.*, 267 Or App 68, 340 P3d 136 (2014) (for a claimant to have good cause to voluntarily leave work, the claimant must derive some benefit from leaving work). Leaving work would end claimant's employment and therefore not improve the likelihood that she would receive insurance from the employer. It also would make her worse off financially because she would not have a job and would lose that income source.

Next, claimant's planned leaving was without good cause to the extent it was due to the employer resolving the issue of the employee's workplace injury without filing a worker's compensation claim on the employee's behalf. The injury to the employee's finger was minor, he did not seek medical attention for it, and the employee told the employer that he did not need to file a worker's compensation claim based on the injury. Though the employer paid the employee a sum of money for the time he took off work due to the injury, this payment was transparent as the employer accounted for it in their payroll records. At hearing, claimant initially asserted that the payment was illegal and made "under the table", only to later concede under cross-examination by the employer that she "didn't claim that [the employer] paid him under the table." *See Transcript at 10, 20.*

Thus, the record fails to show that either the employee's decision to forego making the claim or the employer's act of compensating the employee for the time he took off work due to the injury was improper. There is no evidence to suggest that filing a worker's compensation claim is required by law in the circumstances at hand. Claimant did not prove that the employer's actions in this regard were illegal or unethical, that the payment made to the employer lacked transparency, or that she was harmed by the employer's resolution of the matter. There is no evidence, for example, that claimant was made to file a false report or to conduct herself in an unethical manner. The way in which the employer resolved the issue of the employee's injury therefore did not present claimant with a grave situation. Accordingly, claimant's planned leaving was without good cause to the extent it was based on this reason.

Third, to the extent that claimant's planned leaving was based on her dissatisfaction with other aspects of the job, such as working with a sales team that she thought was incompetent or not seeing growth or career development for herself in the job, claimant failed to prove that her planned leaving would have been with good cause. Claimant did not explain how the sales team's lack of aptitude placed her in a situation of such gravity that she had no reasonable alternative but to leave work. As to career growth, while claimant may have viewed her position as lacking potential in that regard, over the course of her employment she had been promoted, rising to director of operations after working in other roles. Claimant did not prove that she faced a grave situation with respect to these reasons for her planned leaving.

Finally, it is warranted to briefly discuss the occasion on March 22, 2026 in which claimant believed the employer had improperly accessed her personal email account. As this matter occurred on March 22, 2026, after the employer's owner had ended claimant's employment, it did not factor into claimant's planned leaving on April 3, 2026. To any extent the incident is relevant, however, any access the employer may have had to claimant's personal email account was likely due to them removing all of claimant's permissions from her work computer after her discharge on March 22, 2026, and so was not

malicious on the part of the employer. At hearing, claimant conceded logging into her personal email account from her work computer at the employer's office, though she asserted she would not have left herself logged in. Transcript at 12-13. The employer's witness credibly testified that the employer would only have been able to access the personal email account if claimant had left herself logged in, and asserted that any indication the employer had accessed claimant's account on March 22, 2026 was due to removing all of claimant's permissions from her work computer that day. Transcript at 17.

For these reasons, claimant's April 3, 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) requires that claimant be disqualified from receiving unemployment insurance benefits effective March 29, 2026 (week 13-26). Claimant is not disqualified from receiving benefits for the week of March 22 through 28, 2026 (week 12-26).

DECISION: Order No. 26-UI-333080 is set aside, as outlined above.

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

DATE of Service: August 13, 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

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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.

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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