

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0652

Affirmed
No Disqualification

Confirmada
No Descalificación

Este documento incluye información importante que no ha sido traducida al español. Llame a la Junta de Apelaciones de Empleo (EAB) al 503-378-2077 para obtener servicios de traducción gratuitos.¹

PROCEDURAL HISTORY: On May 27, 2026, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit work without good cause and was therefore disqualified from receiving unemployment insurance benefits effective December 14, 2025 (decision # L0017699638). Claimant filed a timely request for hearing. On June 22, 2026, ALJ Micheletti conducted a hearing interpreted in Spanish, and on June 29, 2026 issued Order No. 26-UI-333812, reversing decision # L0017699638 by concluding that claimant was discharged, but not for misconduct, and was not disqualified from receiving benefits based on the work separation. On July 13, 2026, the employer filed an application for review with the Employment Appeals Board (EAB).

HISTORIA DEL PROCEDIMIENTO: El 27 de mayo de 2026, el Departamento de Empleo de Oregon (el Departamento) notificó una decisión administrativa en la que se concluía que la reclamante había renunciado voluntariamente al trabajo sin causa justificada y, por lo tanto, quedaba descalificada para recibir beneficios de seguro de desempleo a partir del 14 de diciembre de 2025 (decisión # L0017699638). La reclamante presentó una solicitud de audiencia a tiempo. El 22 de junio de 2026, el juez administrativo (ALJ) Micheletti llevó a cabo una audiencia con interpretación al español, y el 29 de junio de 2026 emitió la Orden No. 26-UI-333812, revirtiendo la decisión # L0017699638 al concluir

¹ This document includes important information that has not been translated into Spanish. Please call the Employment Appeals Board (EAB) at 503-378-2077 to obtain free translation services.

que la reclamante fue despedida, pero no por mala conducta, y que no estaba descalificada para recibir beneficios debido a la separación laboral. El 13 de julio de 2026, el empleador presentó una solicitud de revisión ante la Junta de Apelaciones de Empleo (EAB).

WRITTEN ARGUMENT: EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The employer's argument contained information that was not part of the hearing record, but is necessary to complete the record. See ORS 657.275(2) and OAR 471-041-0090(1). During the hearing, the employer's witness read into the record a text message sent by claimant, written in Spanish, and the interpreter did not accurately interpret into English part of the witness' testimony regarding the contents of the text. The employer submitted with their application for review a screenshot of the text, which illustrates this point.² The screenshot has been marked and admitted as EAB Exhibit 1. Any party that objects to EAB admitting EAB Exhibit 1 must send their objection to EAB in writing, explaining why they object, within ten days of EAB mailing this decision. OAR 471-041-0090(2). Unless EAB receives and agrees with the objection, the exhibit will remain in the record. EAB also considered the rest of the employer's argument in reaching this decision.

ARGUMENTO POR ESCRITO: EAB ha considerado evidencia adicional al llegar a esta decisión bajo Regla Administrativa de Oregón (OAR) 471-041-0090(1) (13 de mayo de 2019). El argumento del empleador contenía información que no era parte del expediente de este caso, pero la información es relevante y material, y factores o circunstancias fuera del control razonable del empleador impidió que el empleador ofreciera la información durante la audiencia. Véase ORS 657.275(2) y OAR 471-041-0090(1). Durante la audiencia, el testigo del empleador leyó en el acta un mensaje de texto enviado por la reclamante, escrito en español, y el intérprete no interpretó correctamente al inglés una parte del testimonio del testigo sobre el contenido del mensaje. El empleador presentó con su solicitud de revisión una foto del mensaje, que ilustra este punto.² Este fue un factor fuera del control razonable del empleador. La información ha sido admitida como "EAB Exhibit (Anexo) 1". Cualquier parte que se oponga a que EAB admita el Anexo 1 de EAB debe enviar su objeción a EAB por escrito, explicando por qué se opone, dentro de diez días después de que EAB envíe esta decisión. OAR 471-041-0090(2). A menos que EAB reciba y esté de acuerdo con la objeción, el anexo permanecerá en el registro.

FINDINGS OF FACT: (1) Medford Airport Hotel, LLC employed claimant as a part-time housekeeper from December 2022 through January 2026.

(2) During the winter months, the employer either reduced the hours of housekeeping staff or did not schedule some employees for work at all due to seasonal business conditions. Claimant typically did not perform work for the employer from December through March or April of the following year for this reason.

² Specifically, "Murió un tío y me voy a San Diego 2 semanas y empezaré a estudiar regresando" was interpreted at hearing as "[M]y uncle has died, and I'm going to San Diego. I also want to start again," but should have been interpreted as, "My uncle died and I am going to San Diego for two weeks, and I will start studying when I get back." EAB Exhibit 1 at 1; Transcript at 9. EAB has considered the latter interpretation in reaching this decision.

Específicamente, "Murió un tío y me voy a San Diego 2 semanas y empezaré a estudiar regresando" fue interpretado en la audiencia como "Mi tío ha muerto, y me voy a San Diego. También quiero empezar de nuevo," pero debería haberse interpretado como, "Mi tío murió y me voy a San Diego por dos semanas, y empezaré a estudiar cuando regrese." EAB Exhibit 1 en 1; Transcripción en 9. EAB ha considerado esta última interpretación al tomar esta decisión.

(3) Claimant last performed work for the employer on December 19, 2025. Thereafter, claimant had a coworker check the weekly work schedules once they were posted and tell her whether she had been scheduled to work. The employer did not schedule claimant to work from December 20, 2025 through January 29, 2026, either due to business conditions or claimant requesting time off.

(4) On January 16, 2026, claimant sent the hotel's general manager a photograph of her foot in a brace and a doctor's note, explaining that she had slipped and injured the foot. Claimant intended the message to convey that she was temporarily unable to work in the event the employer had intended to schedule her to work in the near future.

(5) On January 29, 2026, claimant sent the general manager a text, in Spanish, stating in relevant part that she needed to take some time off work because her uncle had died and she would be traveling to San Diego for two weeks. The text was apologetic and explained that claimant intended to start school when she returned from San Diego, and that she had not fully recovered from her foot injury. The text acknowledged that the employer might need to "put someone in [claimant's] place" due to her absence and that she did "not want to make [the employer] wait." Transcript at 9.

(6) The employer understood the text to mean that claimant was quitting work, and they did not schedule her for any shifts thereafter. Claimant had intended the text to convey only that she was temporarily unable to work due to her injury and travel plans and was requesting that the employer not schedule her for any shifts for at least two weeks. After claimant returned from San Diego, she continued to have her coworker check the schedule for her, and after a period of not being scheduled for any shifts, eventually sought work at other hotels.

CONCLUSIONS AND REASONS: Claimant was discharged, but not for misconduct.

CONCLUSIONES Y RAZONES: *La reclamante fue despedida, pero no por mala conducta, y no está descalificada para recibir beneficios de seguro de desempleo por la separación laboral.*

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 parties disputed the nature of the work separation. The employer asserted that claimant quit work by sending the January 29, 2026 text message, while claimant asserted that the text had only requested a period of time off and that the employer responded by failing to schedule her for any additional shifts, thereby discharging her.

The hotel's general manager testified that while the housekeeping staff's hours were typically reduced during winter months, she tried to offer each employee at least two days of work per week. Transcript at 10-11. However, the manager testified that payroll records showed that claimant last worked on December 19, 2025, and while the manager could not specifically remember why claimant did not work

between that day and January 29, 2026, she believed it was due to a combination of lack of work and claimant requesting time off. Transcript at 15. In contrast, claimant testified that the employer typically did not offer her work from December through March or April of the following year, but she understood that the employer could recall her to work at any time and thus had a coworker continuously check the weekly schedules to see whether she was scheduled for work during those periods. Transcript at 4-5, 14.

Regardless of the reason that claimant did not work between December 20, 2025 and January 29, 2026, the record shows that both parties understood that the employment relationship still existed during that period. On January 29, 2026, claimant sent a text message that the employer construed as a resignation with immediate effect. However, that message did not explicitly state that claimant was quitting work and only described the need for a two-week period of leave due to a death in the family and a foot injury. While the message also mentioned a plan to resume schooling once claimant returned from San Diego, such a plan was not necessarily inconsistent with continuing to work part time for the employer. The message also acknowledged that the employer might need to “put someone in [claimant’s] place” due to her absence and that she did “not want to make [the employer] wait,” but did not suggest that claimant *wanted* the employer to take that course of action. Therefore, while the employer misconstrued the text message as a resignation, the message did not objectively convey an unwillingness to continue in the employment relationship. The employer’s treatment of the text message as a resignation with immediate effect demonstrated that they were unwilling to allow claimant to work after that date, thereby ending the employment relationship. Accordingly, the work separation was a discharge that occurred on January 29, 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 because they misconstrued a request for time off as notice of her resignation. Merely requesting a period of two weeks off due to a death in the family and a foot injury did not violate a standard of behavior that an employer has the right to expect of an employee. While it is unfortunate that the employer misunderstood what claimant was attempting to convey in her text message, claimant’s actions did not constitute a willful or wantonly negligent violation of a reasonable employer policy. Accordingly, 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.

Por estas razones, la reclamante fue despedida, pero no por mala conducta, y no está descalificada para recibir beneficios de seguro de desempleo por la separación laboral.

DECISION: Order No. 26-UI-333812 is affirmed.

DECISIÓN: *La Orden de la Audiencia 26-UI-333812 queda confirmada.*

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

DATE of Service: August 21, 2026

FECHA de Servicio: 21 de agosto de 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.

NOTA: *Puede apelar esta decisión presentando una Petición de Revisión Judicial ante la Corte de Apelaciones de Oregon (Oregon Court of Appeals) **dentro de los 30 días siguientes a la fecha de entrega de esta decisión indicada arriba**. Vea ORS 657.282. Para obtener formularios e información, visite <https://www.courts.oregon.gov/courts/appellate/forms/Pages/appeal.aspx> y elija el formulario para “Junta de Apelaciones Laborales”. En este sitio web, hay información disponible en español. Puede solicitar un intérprete para la Corte en <https://web.courts.oregon.gov/osca/clas/CLASRequestFormRedirect.html> También puede comunicarse con la Corte de Apelaciones por teléfono al (503) 986-5555, por fax al (503) 986-5560 o por correo a 1163 State Street, Salem, Oregon 97301.*

Por favor, ayúdenos a mejorar nuestro servicio completando una encuesta de servicio al cliente. Para completar la encuesta en línea, vaya a <https://www.surveygizmo.com/s3/5552642/EAB-Customer-Service-Survey>. Si no puede completar la encuesta en línea y desea obtener una copia impresa de la encuesta, comuníquese con nuestra oficina.



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 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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