

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0658

Reversed
No Disqualification

PROCEDURAL HISTORY: On May 27, 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 unemployment insurance benefits effective March 29, 2026 (decision # L0017782393). Claimant filed a timely request for hearing. On June 22, 2026, ALJ Murdock conducted a hearing at which the employer failed to appear, and on June 26, 2026 issued Order No. 26-UI-333730, affirming decision # L0017782393.¹ On July 16, 2026, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: EAB did not consider claimant's written argument because he did not state that he provided a copy of his argument to the employer as required by OAR 471-041-0080(2)(a) (May 13, 2019).

FINDINGS OF FACT: (1) Dollar General employed claimant from February 2023 through March 31, 2026, most recently as assistant manager of one of their stores. During claimant's tenure, the store was budgeted for two full-time positions of at least 32 hours per week, including claimant's, while other employees worked part time.

(2) By February 2026, some of the store's food coolers were malfunctioning, causing them to retain water which resulted in mold growth. Employees and customers complained about the mold, and the task of cleaning it often fell to claimant, which he considered a health hazard. On February 10, 2026, claimant sent an email to his district manager requesting that he resolve the issue.

(3) By February 14, 2026, claimant had not received a response from the district manager, and on or around that date, claimant submitted an anonymous complaint to the Occupational Safety and Health

¹ Order No. 26-UI-333730 stated that it modified decision # L0017782393, but it affirmed that decision, as the disqualification effective date remained the same.

Administration (OSHA) regarding the situation. Claimant corresponded thereafter with OSHA for over two weeks as they responded to the complaint, initially through asking the employer by phone to fix the problem. The employer then represented to OSHA that the coolers had been fixed, even though the attempt to fix them had been unsuccessful and they continued to leak, and no mold remediation had been attempted. When OSHA attempted to verify with claimant the employer's assertion that the situation had been fixed, he detailed in a March 3, 2026 email reply that the attempt to fix the coolers had been unsuccessful and they continued to leak, and no mold remediation had been attempted.

(4) Later in March 2026, the district manager instructed the store manager to hire another full-time employee and, once they had been trained, reduce claimant's hours to 19 per week with further reductions to follow. The district manager also directed the store manager to find reasons to discipline claimant as a pretext for eventually discharging him. Thereafter, claimant received three written warnings regarding incidents for which the employer would not typically discipline store employees, such as forgetting to sign certain paperwork or prioritizing other tasks over updating price tags during Saturday shifts.

(5) On March 29, 2026, claimant first learned that his scheduled work hours would be reduced, initially to 19 per week. The next day, claimant spoke with the store manager about the schedule and was told that the district manager had directed her to hire another full-time employee, then reduce claimant's hours and to "find reasons to write [claimant] up." Transcript at 14. The store manager also told claimant that the district manager was "trying to get [claimant] out of the company." Transcript at 14, 34.

(6) On March 31, 2026, claimant submitted written notice of his resignation, effective at the end of his shift that day. Claimant resigned because of the unresolved mold issue, the reduction in hours, and because he believed the employer was retaliating against him for the OSHA complaint.

(7) At the time of the work separation, claimant was earning approximately \$21 per hour and the costs of his commute and work uniform, his only expenses in working for the employer, would not have exceeded his earnings from part-time work.

CONCLUSIONS AND REASONS: Claimant 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 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) (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 Dept.*, 348 Or 605, 612, 236 P3d 722 (2010).

A claimant who leaves work due to a reduction in hours "has left work without good cause unless continuing to work substantially interferes with return to full time work or unless the cost of working exceeds the amount of remuneration received." OAR 471-030-0038(5)(e).

Claimant quit work because of what he believed were unsafe working conditions, and the employer retaliating against him, including by reducing his work hours, for reporting those conditions to OSHA. To the extent claimant quit work due to the reduction in hours, the record shows that the costs of continuing to work part time for the employer would not have exceeded his negligible commuting and uniform expenses. When claimant was asked at hearing if working part time for the employer would have substantially interfered with obtaining full-time work with another employer, he replied, “[P]robably,” then asserted that with reduced hours he “wouldn’t be able to sustain [his] life as far as rent and all of that,” but did not explain how a search for full-time work would otherwise have been impacted. Transcript at 29-30. The record fails to show that continuing to work for the employer would have substantially interfered with claimant’s return to full-time work, and a finding of good cause based on the reduction in hours is precluded by OAR 471-030-0038(5)(e).

To the extent claimant quit work due to his belief that the employer retaliated against him for reporting the mold concerns to OSHA, the order under review concluded that claimant did not show by a preponderance of the evidence that the employer actually engaged in such retaliation because they did not explicitly tell claimant that the negative employment actions they were taking against him were in retaliation for his complaint. Order No. 26-UI-333730 at 3. The record does not support that claimant failed to meet his burden of proof on that issue.

On February 10, 2026, claimant sent an email complaining of the mold situation to the district manager, and made the same complaint to OSHA approximately four days later. From the timing of these events, it is likely the district manager would have suspected claimant of being the source of the OSHA complaint even though OSHA agreed to not identify him only as the complainant. On March 3, 2026, claimant confirmed to OSHA that the employer had not properly fixed the coolers or remediated the mold that was present, despite the employer’s representations to the contrary, which likely prolonged OSHA’s investigation after that date. Within one to two weeks after that email was sent, the district manager directed the store manager to hire a new employee to take claimant’s full-time position, reduce claimant’s work hours from full time to 19 or fewer per week, and “find reasons to write [claimant] up.” In the remaining weeks of the month, claimant received three written warnings, at least two of which were for mistakes or inefficiencies the employer had regularly tolerated or handled informally over his past three years of employment. When claimant asked the store manager on March 30, 2026 why the employer was taking these actions against him, she replied that the district manager had directed her to do so and was “trying to get [claimant] out of the company.” Even though the store manager did not explicitly tell claimant that the district manager was directing her to take these actions to retaliate against claimant for the OSHA complaint, the circumstantial evidence is sufficient to find that, this was likely the reason for the district manager’s actions.

In considering the ongoing impermissible retaliation against claimant for having made the OSHA complaint, and the employer’s failure to adequately resolve the mold situation more than six weeks after claimant’s complaint to OSHA, a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would leave work when claimant did. Moreover, as the district manager was responsible for both the retaliation and the failure to address the mold situation, and the store manager apparently felt she had no choice but to comply with his directives, it stands to reason that claimant had no reasonable alternative to quitting when he did, such as appealing to other authority figures within the

company or seeking relief from outside the employer.² Accordingly, claimant quit work for reasons of such gravity that he had no reasonable alternative but to quit. He therefore quit with good cause and is not disqualified from receiving benefits based on the quit.

DECISION: Order No. 26-UI-333730 is set aside, as outlined above.

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

DATE of Service: August 25, 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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² See *J. Clancy Bedspreads and Draperies v. Wheeler*, 152 Or App 646, 954 P2d 1265 (1998) (where unfair labor practices are ongoing or there is a substantial risk of recurrence, it is not reasonable to expect claimant to continue to work for an indefinite period of time while the unfair practices are handled by a government agency).



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.

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