

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0678

Modified
Late Request for Hearing Allowed
No Disqualification

PROCEDURAL HISTORY: On May 12, 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 December 21, 2025 (decision # L0017530107). On June 1, 2026, decision # L0017530107 became final without claimant having filed a request for hearing. On June 6, 2026, claimant filed a late request for hearing on decision # L0017530107. ALJ Kangas considered claimant's request, and on June 11, 2026 issued Order No. 26-UI-332523, dismissing claimant's request for hearing as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by June 25, 2026. On June 15, 2026, claimant filed a timely response to the appellant questionnaire.

On July 9, 2026, ALJ Enyinnaya conducted a hearing at which the Department failed to appear, and on July 10, 2026 issued Order No. 26-UI-334720, allowing claimant's late request for hearing on decision # L0017530107 and affirming that decision on the merits. On July 28, 2026, claimant filed an application for review of Order No. 26-UI-334720 with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant submitted written arguments on July 28, 2026 and August 19, 2026. EAB did not consider claimant's July 28, 2026 written argument because she did not state that she provided a copy of their argument to the employer as required by OAR 471-041-0080(2)(a) (May 13, 2019). Claimant's August 19, 2026 argument 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 (May 13, 2019), EAB considered only information received into evidence at the hearing. EAB considered any parts of claimant's August 19, 2026 argument that were based on the hearing record.

PARTIAL ADOPTION: EAB considered the entire hearing record, including witness testimony and any exhibits admitted as evidence. EAB agrees with the part of Order No. 26-UI-334720 that allowed

claimant's late request for hearing. That part of Order No. 26-UI-334720 is **adopted**. See ORS 657.275(2).

FINDINGS OF FACT: (1) Fred Meyer Stores, Inc. employed claimant at one of their grocery stores from approximately October 19, 2025 through December 21, 2025. Claimant primarily worked as a cashier, but also worked at the store's customer service desk, and sometimes as the person-in-charge.

(2) Claimant suffered from a chronic physical illness beginning in 2022. In or around August 2024, claimant was also diagnosed with attention-deficit/hyperactivity disorder (ADHD). As a result of these conditions, claimant was advised by her physician that she should work no more than 25 hours per week.

(3) The employer initially hired claimant in a part-time capacity, which claimant had sought out because of her medical limitation on how many hours per week she could work. Claimant did not initially advise the employer of that limitation, as she assumed that her scheduled hours would be kept within her limitation. However, the employer did not schedule claimant on a part-time basis as she had expected. Instead, the employer scheduled claimant for full-time work, typically about 43 hours per week. Claimant attempted to work as scheduled but found it difficult to do so due to her medical conditions.

(4) Claimant initially attempted to work informally with the employer to reduce her scheduled hours, but the effort was unsuccessful. On or around December 10, 2025, claimant met with the store's human resources (HR) manager to request a formal accommodation regarding her schedule. Claimant brought with her a doctor's note, dated December 8, 2025, showing that claimant should work no more than 25 hours per week due to "multiple chronic medical conditions, that affect her both physically and mentally." DR Exhibit 2 at 6. The HR manager submitted the document to the employer's labor relations department, which handled approving or denying such requests. The labor relations department requested that claimant provide an additional doctor's note, to include an end date for her restrictions, before they would approve the request for accommodation.

(5) On December 17, 2025, claimant again met with the HR manager, and provided to her a letter from her physician, dated December 12, 2025, which indicated the same as the previous letter but with an end date of December 2028. The HR manager submitted the second letter to the labor relations department for approval. The HR manager told claimant that, while the accommodation request was still pending, they had made a store-level decision to implement claimant's schedule limitations, effective December 28, 2025. However, the HR manager also told claimant that because schedules were written three weeks in advance, they could not change claimant's schedule for the period prior to December 28, 2025; that "schedules which have already been written are generally expected to be worked as posted"; but that "regardless of previously written schedules, [claimant was] expected to remain within the approved weekly hour limitation." Exhibit 2 at 8.

(6) On December 20, 2025, claimant called out for her scheduled shift that day. Claimant spoke to her manager to report the absence and explained that she could not work the shift because she had already exceeded 25 hours that week, in violation of her medical limitations. The manager "was very upset and escalated the situation," and told claimant that if claimant did not arrive for her shift that day the employer would consider her to have resigned. Transcript at 15. Claimant told the manager that she was

not quitting and was only trying to keep within her medical restrictions and ended the call shortly thereafter.

(7) After speaking with her manager, claimant “just decided that [she] couldn’t work there anymore,” despite her prior statement to the contrary. Transcript at 16. On December 21, 2025, claimant sent the employer an email explaining that she was resigning with immediate effect because the employer had failed to adhere to her medical limitations by scheduling her for more than 25 hours per week. Claimant did not work for the employer thereafter.

(8) Claimant was not eligible for medical leave based on the length of time she had been working for the employer.

CONCLUSIONS AND REASONS: Claimant voluntarily quit work with 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).

Claimant asserted in her August 19, 2026 written argument that “[w]here an employer conditions continued employment on an employee exceeding a documented medical restriction, and then tells the employee that following her doctor’s restriction will end her employment, the separation should be properly analyzed as *employer-caused* rather than as an ordinary employee-voluntary resignation.” Claimant’s August 19, 2026 Written Argument at 5 (emphasis in original). Claimant offered no support for this assertion.

While claimant’s position here is understandable, the record shows that the employer presented claimant with the choice to either continue working for the employer by working her scheduled shift on December 20, 2025, or resign. Because claimant had the option of working on December 20, 2025, continuing work was available to claimant. When claimant was faced with these choices, she chose to resign because she felt that continuing to work for the employer under the terms available to her was unacceptable. As such, under OAR 471-030-0038(2)(a), because claimant had the option of continuing to work for the employer but chose not to do so because it would have violated her medical restrictions, the work separation was a voluntary leaving which occurred on December 21, 2025. Claimant’s reasons for quitting are a separate matter, as discussed below, and are considered when deciding whether she quit for good cause.

Voluntary Quit. 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). “[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 ADHD, 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.

Claimant quit because the employer did not follow her medical limitations by scheduling her for more than 25 hours per week. Broadly, the employer had been scheduling her for more than 40 hours per week since she began working for them, despite claimant’s understanding that she had been hired for a part-time position. More particularly, after claimant called out from work due to having already exceeded her medically-allowed hours for the week, claimant’s manager gave her the option of either working the shift as scheduled or resigning.

Claimant’s scheduling limitation was imposed by her physician, due to claimant’s ADHD and chronic physical illness.¹ At hearing, claimant explained that it “[took] a huge physical toll on [her] body to be at work nine hours a day every day of the week.” Transcript at 17. Given these facts and the manager’s insistence that claimant work in excess of her medical limitations, claimant’s situation was grave. While the order under review concluded that claimant’s situation was grave, it also concluded that claimant did not have good cause for quitting because she did not seek the reasonable alternative of “giving the employer time to process her accommodation request and implement her new reduced schedule.” Order No. 26-UI-334720 at 5. The record does not support this conclusion.

The record shows that giving the employer more time would not have been a reasonable alternative to quitting because doing so would have required claimant to continue to work under the same conditions that created the gravity of her situation: working hours in excess of her medical limitations. Similarly, asking the HR manager to intervene with her own manager was not a reasonable alternative to quitting. That doing so might have resulted in claimant being permitted to work a reduced schedule for the remaining week until the new schedule was implemented is not supported by the record. At hearing, the HR manager testified that it was “hard to speculate” as to whether she could have resolved the matter had claimant contacted her. Transcript at 35. The HR manager also testified that claimant’s decision not to work on December 20, 2025 was “considered a resignation,” confirming what claimant’s manager had told claimant during their call that day. Transcript at 32. Taken together, this testimony shows that, more likely than not, the HR manager would not have been able to intervene to allow claimant to work a reduced schedule through December 28, 2025. Additionally, claimant was not yet eligible for medical leave due to the length of her employment, and therefore could not have taken protected time off from work until the new schedule was implemented.

In sum, none of the above alternatives to quitting would have been *reasonable* alternatives. As such, claimant voluntarily quit work for a reason of such gravity that a reasonable and prudent person with the characteristics and qualities of an individual with claimant’s impairment would not have continued to work for their employer for an additional period of time. Claimant therefore voluntarily quit work with good cause and is not disqualified from receiving unemployment insurance benefits based on the work separation.

¹ While claimant’s physical illness was not described in the record, claimant’s medical documentation indicated that claimant had “multiple chronic medical conditions.” DR Exhibit 2 at 5.

DECISION: Order No. 26-UI-334720 is modified, as outlined above.

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

DATE of Service: September 16, 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.

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.



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.

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

The Oregon Employment Department is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Language assistance is available to persons with limited English proficiency at no cost.

El Departamento de Empleo de Oregon es un programa que respeta la igualdad de oportunidades. Disponemos de servicios o ayudas auxiliares, formatos alternos y asistencia de idiomas para personas con discapacidades o conocimiento limitado del inglés, a pedido y sin costo.