

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0688

Reversed
No Disqualification

PROCEDURAL HISTORY: On June 24, 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 June 7, 2026 (decision # L0018192695).¹ Claimant filed a timely request for hearing. On July 17, 2026, ALJ Krueger conducted a hearing, at which the employer failed to appear, and on July 20, 2026, issued Order No. 26-UI-335365, modifying decision # L0018192695 by concluding that the employer discharged claimant, but not for misconduct, within 15 days of claimant's planned voluntary leaving without good cause, and that claimant therefore was not disqualified from receiving benefits for the week of June 7 through June 13, 2026, but was disqualified from receiving benefits effective June 14, 2026. On August 2, 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) Safeway Stores, Inc., employed claimant as a cake decorator from December 21, 2025 until June 12, 2026. Claimant worked in the bakery department of the employer's store located in Sandy, Oregon.

¹ Decision # L0018192695 stated that claimant was denied benefits from June 7, 2026 to May 29, 2027. However, decision # L0018192695 should have said that claimant was disqualified from receiving benefits beginning Sunday, June 7, 2026 and until she earned four times her weekly benefit amount. *See* ORS 657.176.

(2) The bakery manager at the Sandy store was claimant's supervisor. Claimant had a difficult working relationship with the bakery manager and felt as though the bakery manager bullied her. In January 2026, claimant's union issued her a letter requesting dues claimant had inadvertently failed to pay when she was hired. The bakery manager received the letter from the union and then gave the letter to a coworker to give to claimant. When claimant received the letter from the coworker, it was open and not sealed in an envelope, which claimant thought was an invasion of her privacy.

(3) Thereafter, the bakery manager started to create unnecessary difficulties for claimant. On one occasion during a shift, claimant forgot to wipe down one of the sinks in the department, and was not scheduled to work another shift until four days later. The bakery manager instructed all the bakery employees to leave the sink as it was for that multiple-day period so that claimant would see it when she returned to work. On another occasion, claimant walked behind the bakery manager as the manager was getting something from the oven. The bakery manager then grabbed claimant's arm, "got in [claimant's] face," and in a mocking tone stated, "You need to know that you can't walk behind me when I'm opening this." Transcript at 16.

(4) When claimant began working for the employer, she was typically scheduled to work 30 to 35 hours per week. By the end of February 2026, the employer was typically scheduling claimant to work about 15 hours per week. The reduction in hours to less than 20 hours per week violated a provision of claimant's union contract that required the employer to schedule part-time employees to work at least 20 hours per week unless they requested fewer hours. Unbeknownst to claimant at that time, the bakery manager had told one of claimant's coworkers at the Sandy store, another cake decorator, that she was reducing claimant's hours to induce claimant to quit.

(5) In early April 2026, claimant raised concerns about how the bakery manager treated her with the employer's human resources (HR) manager. The HR manager said that she would investigate but thereafter provided claimant with no updates as to the investigation's status.

(6) Around the same time in April 2026, claimant started working some hours at the employer's store in Gresham, Oregon. Claimant requested to transfer to work at the Gresham store exclusively. The bakery manager did not work at the Gresham store, and claimant wished to work at the Gresham store exclusively so that she could avoid working with the bakery manager.

(7) On May 14, 2026, the cake decorator who worked with claimant at the Sandy store resigned. When this coworker was at the store delivering her resignation letter, she informed claimant that the bakery manager "ha[d] been bullying" claimant "behind [her] back[.]" Transcript at 6. Claimant read the coworker's resignation letter and saw that the coworker asserted in the letter that the bakery manager had told the coworker that she had been purposely reducing claimant's hours to "try and bully [claimant] into quitting." Transcript at 15. Later that day, a newly hired employee mentioned to claimant that the bakery manager had told her during her job interview that claimant "couldn't pay [her] union dues." Transcript at 24.

(8) In addition to the HR manager, claimant also raised concerns about the bakery manager with the store manager and the assistant store manager of the Sandy store. The store manager was unreceptive to claimant's concerns. The assistant store manager "brushed it off" and told claimant that he thought the assertions the coworker had made in her resignation letter about the bakery manager were falsehoods.

Transcript at 18. Claimant also contacted her union about her difficulties with the bakery manager numerous times, and the union told claimant that they had received complaints about managers from the Sandy store but eventually stopped responding to claimant's emails and calls.

(9) At or soon after the other cake decorator resigned, the bakery manager told claimant that she could not transfer to the Gresham store, because she was needed at the Sandy store due to the resignation of the other cake decorator.

(10) Claimant felt "very uncomfortable" and "very hurt and upset and angry" when she learned about the assertions in the resigning employee's resignation letter and that the bakery manager had mentioned her financial circumstances in a job interview with the new employee. Transcript at 24. Claimant contacted the HR manager and told her that she was not comfortable working with the bakery manager any longer. The HR manager told claimant that she had to continue working with the bakery manager.

(11) On June 1, 2026, claimant gave the employer notice of her intent to resign effective at the end of her shift on June 14, 2026. Claimant decided to resign because the HR manager had told her that she had to continue working with the bakery manager. When claimant submitted her resignation notice, she was still waiting for a decision as to whether the transfer to the Gresham store would be approved, although the matter had been pending since April and the bakery manager had previously told her she would not be allowed to transfer there.

(12) On June 6, 2026, claimant worked a shift at the Gresham store, which would be her last day working for the employer. On June 7, 2026, claimant received a call from the store manager of the Sandy store. The manager mentioned that claimant was supposed to work a full-time schedule that week at the Sandy store. Claimant was surprised because she had not received a schedule to work that week at the Sandy store and had been expecting to work at the Gresham store that day. Claimant told the manager that she did not know her precise hours for the week. The store manager responded, "Okay," and ended the call. Transcript at 20. Claimant did not report to work at the Sandy store after receiving the manager's call because she did not want to work with the bakery manager and she did not receive details as to when her precise shifts were supposed to start and end.

(13) Claimant had understood she was scheduled to work shifts at the Gresham store on June 13, 2026, and on her final day of work on June 14, 2026. On June 12, 2026, the store manager of the Gresham store sent claimant a text message saying that claimant had been taken off the work schedule and "that usually means you're terminated." Transcript at 21. The Gresham store manager also mentioned that the HR worker had contacted her store about the potential transfer, but that the Gresham store manager did not know if the issue had been decided and asked if claimant had heard back about that subject. Claimant said that she had not heard back and asked the manager to let claimant know if she learned any more information. The manager never responded. Based on the Gresham store manager's text, claimant concluded that the employer had discharged her. Claimant did not work for the employer after June 6, 2026.

CONCLUSIONS AND REASONS: The employer discharged claimant, but not for misconduct, within 15 days of claimant's planned voluntary leaving for 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).

The work separation was a discharge that occurred on June 12, 2026. On that date, the Gresham store manager advised that claimant had been taken off the work schedule for June 13 and 14, 2026, and that this action meant that the employer had terminated claimant's employment. Claimant had been scheduled to work those two days at the Gresham store and planned to perform that work with the intention of leaving employment at the end of the shift on June 14, 2026. Because claimant was willing to continue working for the employer until June 14, 2026, but was not allowed to do so by the employer, the work separation was a discharge that occurred on June 12, 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 did not meet their burden to prove that they discharged claimant for misconduct. It is not evident why the employer discharged claimant by taking her off the work schedule when she had been scheduled to work at the Gresham store on June 13 and 14, 2026. It is possible that the employer did so because claimant did not report to work at the Sandy store after receiving the manager's call on June 7, 2026. It is also possible that the employer did so simply because claimant had given notice of her intent to resign effective June 14, 2026, or that this effective date of claimant's resignation was imminent as of June 12, 2026.

In any case, the employer, who did not appear at hearing, did not prove that they 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 discharged claimant, but not 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, not for misconduct, on June 12, 2026, which was within 15 days of claimant's planned leaving on June 14, 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).

The order under review concluded that the employer discharged claimant, but not for misconduct, within 15 days of claimant's planned leaving without good cause. Order No. 26-UI-335365 at 5-6. As discussed above, the record supports that the employer discharged claimant, but not for misconduct. However, the record does not support that claimant's planned leaving was without good cause.

Claimant's planned leaving was for reasons that constituted good cause. Claimant planned to leave work because of the bakery manager's treatment of her. The bakery manager's treatment of claimant was a grave situation. The bakery manager failed to safeguard claimant's private information by assigning a coworker to give the unpaid-dues letter to claimant, which was open and unsealed at the time, and by discussing claimant's unpaid dues during a job interview of another employee. The bakery manager treated claimant harshly by seemingly attempting to embarrass claimant by requiring the unkempt sink to remain in that state so that claimant would see it when she returned to work, and by grabbing claimant's arm and admonishing her in an aggressive and mocking tone on the occasion that claimant walked behind her. Based on the information that claimant gained from the employee who resigned on May 14, 2026, the bakery manager was also responsible for reducing claimant's work hours to below the 20 hours per week required under the union contract and had reduced those hours in an effort to cause claimant to resign. When claimant said that she did not want to work with the bakery manager any longer, the HR worker told claimant that she would have to continue working with the bakery manager. A reasonable and prudent person required to work with a manager who subjected them to such mistreatment would quit work.

No reasonable alternatives to leaving work were available to claimant. Claimant had raised concerns about how the bakery manager treated her with the employer's HR manager, but the HR manager failed to update claimant on the status of her investigation of the bakery manager and ultimately told the claimant that she had to continue working with the bakery manager. Claimant raised concerns about the bakery manager with the store manager and the assistant store manager of the Sandy store. However, the store manager was unreceptive to claimant's concerns, and the assistant store manager was dismissive, telling claimant that he thought the assertions the coworker had made in her resignation letter about the bakery manager were false. Claimant also contacted her union about her difficulties with the bakery manager numerous times, and the union told claimant that they had received complaints about managers from the Sandy store but eventually stopped responding to claimant's emails and calls. Claimant had

requested to transfer to the Gresham store, but a decision on that request had not been made after many weeks, and the record shows that it more likely than not would not have been granted because the bakery manager had told claimant that she could not transfer to the Gresham store because she was needed at the Sandy store due to the recent resignation of the other cake decorator. Accordingly, claimant's planned leaving was for reasons of such gravity that she had no reasonable alternative but to leave work when she did.

Therefore, claimant's planned leaving on June 14, 2026 was for reasons that constituted good cause, and ORS 657.176(7) does not apply to this case. As such, the employer discharged claimant, but not for misconduct, and claimant therefore is not disqualified from receiving unemployment insurance benefits based on the work separation.

DECISION: Order No. 26-UI-335365 is set aside, as outlined above.

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

DATE of Service: September 21, 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

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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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Email: appealsboard@employ.oregon.gov

Website: www.Oregon.gov/employ/pages/employment-appeals-board.aspx

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