

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0716

Affirmed
Disqualification

PROCEDURAL HISTORY: On June 1, 2026, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged, but not for misconduct, and was therefore not disqualified from receiving unemployment insurance benefits based on the work separation (decision # L0017829675). The employer filed a timely request for hearing. On July 17, 2026, ALJ Murdock conducted a hearing, and on July 22, 2026 issued Order No. 26-UI-335624, reversing decision # L0017829675 by concluding that claimant voluntarily quit work without good cause and was therefore disqualified from receiving benefits effective March 22, 2026. On August 10, 2026, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant's August 10, 2026 argument contained information that was not part of the hearing record and did not show that factors or circumstances beyond his reasonable control prevented him 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 10, 2026 argument that were based on the hearing record. EAB also considered claimant's September 6, 2026 argument.¹

FINDINGS OF FACT: (1) Love's Travel Stops & Country Stores, Inc. employed claimant at their store in Barker City, Oregon from June 5, 2024 through March 26, 2026.

(2) On approximately January 16, 2026, claimant lost a lanyard holding his personal keys and a keychain that had significant sentimental value. On January 21, 2026, claimant noticed the lanyard lying on a counter in the store's office, without the keys or keychain. Claimant reviewed surveillance video, which he believed depicted a department manager, "J," "steal[ing]" the keychain. Transcript at 20. Claimant used his phone to take a photo of that point in the video. Claimant then contacted the

¹ The envelope containing this argument was postmarked September 9, 2026, but it is improbable that the postmark reflected the actual date of mailing. Under OAR 471-041-0065(2) (May 13, 2019), September 6, 2026 is the most probable date of filing and is therefore considered the filing date.

employer's human resources department to report the matter. Claimant was eventually advised that a district manager would speak with him about the incident during a scheduled visit on February 24, 2026.

(3) On February 24, 2026, the district manager left the store without speaking to claimant about the keychain. Claimant complained to the store's newly assigned general manager, who at that time resided in a distant state. The general manager told claimant that he would meet with him to discuss the incident at some point after March 18, 2026, which would be his first day of work at the store.

(4) On March 24, 2026, claimant met with the general manager. The general manager had conducted some investigation of the complaint, including interviewing witnesses and requesting surveillance video from mid-January 2026, which he was told had not been preserved. Claimant showed the general manager the photo of the surveillance video in response to hearing the results of the investigation to that point. The general manager told claimant that J had told him that another department manager had found the lanyard and given it to J, and that J had removed from the lanyard and discarded what he believed was a small knife² for safety reasons, and placed the keys in the store safe, leaving the lanyard in the office to be claimed by its owner. The keys later went missing from the safe and were never recovered. The general manager explained that there was insufficient cause to discharge J for the incident, but that he would continue to gather information and hold every employee in the store accountable for their actions going forward. Claimant was dissatisfied with this response.

(5) After the meeting, claimant went to a WorkSource office to discuss his complaints about the situation at work. Claimant was advised to address complaints about theft or working conditions to law enforcement or the Bureau of Labor and Industry (BOLI), respectively, and was told that "if criminal acts are being done against you" and not addressed by management, "you could still qualify [for benefits]" after quitting work. Transcript at 28. After leaving WorkSource, claimant gave the employer notice of his resignation, stating that it would be effective two weeks later, on April 7, 2026. Claimant also made a complaint to law enforcement regarding the incident.

(6) On March 25, 2026, law enforcement went to the store to investigate claimant's complaint, and later requested that claimant provide them with the photo of the surveillance video, which he provided. J was eventually issued a citation in connection with the complaint, and the charges were later dismissed.

(7) On March 26, 2026, the general manager met with claimant regarding claimant having taken the photo of surveillance video and supplied it to law enforcement without permission, which he asserted violated an employer policy. Claimant continued to be upset about the employer's failure to recover the keychain or discharge J, and expressed this to the general manager in response. The general manager told claimant that he could work the rest of his notice period as long as he "didn't disrupt the team or the business operations." Transcript at 34. Claimant later made a statement during the conversation that included the word "racist," and the general manager interpreted it as claimant accusing the general manager of being racist. Transcript at 34. The general manager then told claimant that he was considering his resignation to be effective at the end of that day's shift. Claimant did not express any objection to this, but instead left the store without finishing his shift and did not work for the employer again.

² Claimant alternately described this as a "mini letter opener" in the shape of a bullet, which was sold at the employer's store. Transcript at 51. This was apparently the item of sentimental value to claimant.

CONCLUSIONS AND REASONS: Claimant voluntarily quit work without 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).

On March 24, 2026, claimant gave notice of his intent to resign two weeks later, on April 7, 2026. The employer was initially willing to allow claimant to work this notice period. However, on March 26, 2026, the general manager told claimant that he instead intended to consider his resignation effective at the end of his shift that day. Claimant did not object or attempt to continue working the rest of his shift or thereafter, but immediately left the store and did not return to work. Therefore, claimant was the party initially moving to end the employment relationship and, when he left in the morning of March 26, 2026, could have continued working for the employer for an additional period of time.

Where the employer and the employee have “agreed upon a mutually acceptable date on which employment would terminate,” the termination should be treated as a voluntary leaving and not as a discharge. *Smith v. Employment Division*, 34 Or App 623, 579 P2d 310 (1978). Where a claimant notified the employer of their intent to resign on a particular date, and the employer established a different separation date, claimant’s “agreement” to the new separation date can be inferred if claimant did not voice disagreement with the new date or otherwise insist upon working until the original resignation date. *J.R. Simplot Co. v. Employment Division*, 102 Or App 523, 795 P2d 579 (1990).

The record shows that claimant did not voice objection to the employer shortening the notice period, and he did not work until the end of the shortened notice period despite the ability to do so. The employer’s establishment of a different separation date than the one originally proposed by claimant therefore did not change the nature of the work separation to a discharge. Accordingly, the work separation was a voluntary leaving that occurred on March 26, 2026.

Voluntary Leaving. 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 quit work because he was dissatisfied with the employer’s response to the loss of his keychain. While it was understandably upsetting to claimant to lose something of sentimental value, the record fails to show that the employer had any ability to recover it at the time he quit work, as it had likely been discarded by J two months earlier. The employer conducted an investigation into the matter and concluded that discharging J was unwarranted. Though claimant disagreed with this decision, the record does not show that J’s continued employment impacted claimant’s ability to continue working for the

employer, or that the employer would condone J's conduct being repeated in the future. As such, a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would not leave work due to the employer's inability to recover the keychain or unwillingness to discharge J.³ Accordingly, claimant did not face a situation of such gravity that he had no reasonable alternative but to leave work, and therefore quit without good cause.

For these reasons, claimant voluntarily quit work without good cause and is therefore disqualified from receiving unemployment insurance benefits effective March 22, 2026.

DECISION: Order No. 26-UI-335624 is affirmed.

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

DATE of Service: September 28, 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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³ Claimant's belief as to how his unemployment insurance claim might ultimately be adjudicated, based on his conversation with the WorkSource office, does not factor into whether he faced a grave situation at the time he quit work.



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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