

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0723

Reversed
Disqualification

PROCEDURAL HISTORY: On July 1, 2026, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant for misconduct, disqualifying claimant from receiving unemployment insurance benefits effective May 3, 2026 (decision # L0018456632).¹ Claimant filed a timely request for hearing. On July 21, 2026, ALJ Wahl conducted a hearing, and on July 22, 2026 issued Order No. 26-UI-335597, reversing decision # L0018456632 by concluding that the employer discharged claimant, but not for misconduct, and that claimant therefore was not disqualified from receiving benefits based on the discharge. On August 11, 2026, the employer filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Orlins Meat Specialties, also known as Cartwright's Valley Meat Market, employed claimant as a meat cutter from November 22, 2020 until May 8, 2026.

(2) The employer prohibited employees from engaging in "time theft" by misreporting their clock-in or clock-out times on their timesheets to state that they had worked when they had not. Audio Record at 11:05. Claimant understood this expectation, as he was aware that he was not "allowed to cheat" on his timesheet. Audio Record at 25:47.

(3) The employer had timesheet correction forms available for employees to request time clock adjustments if they did not clock in or clock out on the employer's time clock, or to modify a clock-in or clock-out time.

(4) On April 7, 2026, claimant arrived at the employer's parking lot at 6:20 a.m., and failed to clock-in. That day, claimant filled out a timesheet correction form misreporting that he had begun working at 6:00 a.m. that day, and asking to be clocked in at that time for the day.

¹ Decision # L0018456632 stated that claimant was denied benefits from May 10, 2026 to May 8, 2027. However, as the decision stated that claimant was discharged on May 8, 2026, the decision should have stated that claimant was disqualified from receiving benefits beginning Sunday, May 3, 2026 and until he earned four times his weekly benefit amount. See ORS 657.176.

(5) On April 17, 2026, claimant arrived at the employer's parking lot at 6:09 a.m. and clocked-in at 6:12 a.m. That day, claimant submitted a timesheet correction form misreporting that he had begun working at 6:00 a.m. that day and had forgotten to clock-in at 6:00 a.m., and asking that his clock-in time for that day be adjusted to 6:00 a.m.

(6) When claimant submitted the timesheet correction form requesting an adjustment to his clock-in time for April 17, 2026, a fellow employee noticed that the requested adjustment did not match when claimant actually arrived at work. The employee told claimant, "You know that there's cameras and you didn't get here at 6." Audio Record at 14:18.

(7) Shortly after April 17, 2026, the employee who told claimant, "You know that there's cameras and you didn't get here at 6," mentioned to the employer that she suspected claimant had been falsifying his timesheet correction forms, and told the employer what she had said to claimant. The employer then began an investigation comparing claimant's timesheet correction forms to camera footage showing the times he arrived at the employer's workplace.

(8) On April 21, 2026, claimant arrived at the employer's parking lot at 6:23 a.m., arrived at his department at 6:25 a.m., and failed to clock-in. That day, claimant filled out a timesheet correction form misreporting that he had begun working at 6:00 a.m. that day, and asking to be clocked in at that time for the day.

(9) On April 22, 2026, claimant left his shift for the day at 12:19 p.m. and failed to clock-out. On April 27, 2026, claimant filled out a timesheet correction form misreporting that he had worked until 2:00 p.m. that day, and asking to be clocked out at that time for the day.

(10) After comparing claimant's timesheet correction forms to camera footage showing the times claimant arrived at the employer's workplace, and considering the other employee's statement, the employer concluded that claimant had engaged in "time theft" by misreporting his clock-in or clock-out times on his timesheet correction forms to state that he had worked on April 7, 17, 21, and 22, 2026 at times when he had not. On May 8, 2026, the employer discharged claimant for this reason.

CONCLUSIONS AND REASONS: The employer discharged claimant for misconduct.

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) (September 22, 2020). "[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).

Isolated instances of poor judgment are not misconduct. OAR 471-030-0038(3)(b). To be isolated, an instance of poor judgment must be a single or infrequent occurrence rather than a repeated act or pattern of other willful or wantonly negligent behavior. OAR 471-030-0038(1)(d)(A). However, acts that violate the law, that are tantamount to unlawful conduct, or that create irreparable breaches of trust in the employment relationship or otherwise make a continued employment relationship impossible exceed mere poor judgment and do not fall within the exculpatory provisions of OAR 471-030-0038(3). OAR 471-030-0038(1)(d)(D).

The order under review concluded that the employer discharged claimant, but not for misconduct. Order No. 26-UI-335597 at 2-3. The record does not support this conclusion.

Claimant's discharge was for misconduct. The employer discharged claimant for using timesheet correction forms to misreport some of his clock-in and clock-out times for April 7, 17, 21, and 22, 2026. Claimant knew that misreporting his clock-in or clock-out times to state that he had worked at times when he had not was prohibited, as he testified at hearing that he was aware that he was not "allowed to cheat" on his timesheet. Audio Record at 25:47.

The preponderance of the evidence shows that claimant, with at least wanton negligence, used the employer's timesheet correction forms to misreport his clock-in or clock-out times to state that he had worked at times when he had not on several occasions. At hearing, the employer's human resources manager testified that shortly after April 17, 2026, an employee "tipped" the employer about claimant's "time card not being filled out correctly." Audio Record at 11:31. The manager testified that the employee told her that after claimant submitted a timesheet correction form for April 17, 2026, asking that his clock-in time for that day be adjusted to 6:00 a.m., the employee told claimant, "You know that there's cameras and you didn't get here at 6." Audio Record at 14:18. The manager testified that she then began investigating by comparing claimant's timesheet correction forms to camera footage. Audio Record at 11:55.

The manager testified that this process led her to discover that on April 7, 2026, claimant submitted a timesheet correction form stating that he had begun working at 6:00 a.m. that day, and asking to be clocked in at that time for the day, when camera footage showed that he arrived at the employer's parking lot at 6:20 a.m. Audio Record at 12:28. The manager testified that on April 17, 2026, camera footage showed claimant arrived at the employer's parking lot at 6:09 a.m., and that he clocked-in at 6:12 a.m., but he submitted a timesheet correction form stating that he had forgotten to clock-in at 6:00 a.m., and asking that his clock-in time for that day be adjusted to 6:00 a.m. Audio Record at 12:55. The manager testified that on April 21, 2026, camera footage showed that claimant arrived at the employer's parking lot at 6:23 a.m., and arrived at his department at 6:25 a.m., but he submitted a timesheet correction form asking to be clocked-in at 6:00 a.m. Audio Record at 13:24. Finally, the manager testified that claimant submitted a timesheet correction form on April 27, 2026 stating that he had worked until 2:00 p.m. on a prior shift, and asking to be clocked out at 2:00 p.m. for that day, when camera footage showed that claimant left the workplace at 12:19 p.m. on that day.

In contrast to the foregoing, claimant's account was lacking in detail and his explanation for why the clock-in and clock-out times he submitted differed from when he was actually present at the workplace was unconvincing. For April 7, 17, and 21, 2026, claimant testified that "it was literally just a mistake" and he did not "realiz[e]" when he turned in the timesheet correction forms on each of those occasions,

that he had arrived late on those mornings. Audio Record at 24:09. This explanation is not credible, however, because on each of those occasions, claimant turned in the forms on the same day he had arrived late, when his late arrivals would have been fresh in his mind, and he would have been unlikely to forget. Furthermore, submitting a correction form due to a mistake does not make sense for April 17, 2026, because on that date, claimant clocked-in at 6:12 a.m., and thus was unlikely to have forgotten that he had clocked-in that morning and would have had no reason to submit a timesheet correction form. Similarly, claimant's arrivals on April 7 and 21, 2026, at 6:20 a.m. and 6:25 a.m., respectively, were more than 15 minutes late, and so considerably after 6:00 a.m., such that it would be unlikely for claimant to not realize he had arrived late on those mornings.

Regarding claimant's submission of a timesheet correction form on April 27, 2026, asking to be clocked out at 2:00 p.m. for a day that camera footage showed he had left the workplace at 12:19 p.m., claimant explained that he usually worked until 2:00 p.m., and since the correction form was for a shift from five days earlier, April 22, 2026, he did not realize he had left that day at 12:19 p.m. Audio Record at 22:32. This explanation lacks credibility because the gap between 12:19 p.m. and 2:00 p.m. is so substantial, nearly two hours, that, even five days later, claimant was unlikely to have not realized that he left work early that day. The explanation is also implausible when considered in light of claimant's numerous improper 6:00 a.m. adjusted clock-in times in the weeks preceding April 27, 2026. Given the existence of multiple similar timesheet correction discrepancies on April 7, 17, and 21, 2026 dates on which it is not credible that claimant simply forgot that he arrived late, it is likewise not credible that claimant would forget that he left work nearly two hours early on April 22, 2026.

For these reasons, the record fails to show that claimant's misreporting of his clock-in or clock-out times was the result of simply forgetting when he arrived at work or left work. Instead, claimant's use of the forms to misreport his clock-in or clock-out times on four occasions in as many weeks, two of which occurred after the fellow employee had told claimant, "You know that there's cameras and you didn't get here at 6," demonstrated a conscious indifference to the consequences of his actions. As claimant submitted the timesheet correction forms consciously, and knew or should have known that misreporting his clock-in or clock-out times to state that he had worked at times when he had not, would probably result in violations of the employer's expectations, claimant violated the employer's expectations with wanton negligence.

Claimant's wantonly negligent conduct was not an isolated instance of poor judgment because it was not isolated. Claimant used the timesheet correction forms to misreport his clock-in or clock-out times to state that he had worked at times when he had not on multiple occasions. The record shows that claimant used the form each day on April 7, 17, and 21, 2026 to misreport his clock-in time for each of those respective days. Claimant also used the form on April 27, 2026 to misreport his clock-out time for April 22, 2026. Each of these occurrences was a wantonly negligent violation, and therefore constituted a repeated act or pattern of wantonly negligent behavior and not a single or infrequent occurrence.

For these reasons, claimant was discharged for misconduct and is disqualified from receiving benefits effective May 3, 2026.

DECISION: Order No. 26-UI-335597 is set aside, as outlined above.

S. Serres and D. Hettle;

A. Steger-Bentz, not participating.

DATE of Service: September 29, 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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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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