

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0729

Reversed
Disqualification

PROCEDURAL HISTORY: On June 8, 2026, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged by the employer, but not for misconduct, and therefore was not disqualified from receiving unemployment insurance benefits based on the discharge (decision # L0017843564).¹ The employer filed a timely request for hearing. On August 6, 2026, ALJ Bender conducted a hearing, and on August 10, 2026 issued Order No. 26-UI-337083, affirming decision # L0017843564. On August 31, 2026, the employer filed an application for review of Order No. 26-UI-337083 with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: On August 13, 2026, claimant filed a document EAB is treating as a written argument, prior to the employer filing an application for review of Order No. 26-UI-337083 on August 31, 2026. Claimant's filing did not contain a statement that a copy was served on the employer, as is required of written arguments under OAR 471-041-0080(2)(a) (May 13, 2019). However, due to the unusual timing of the filing, claimant may not have been aware that that EAB would treat it as a written argument and that service on the opposing party was therefore required. Under these circumstances, EAB has considered claimant's written argument in reaching this decision and has provided a copy of it to the parties with the decision.

FINDINGS OF FACT: (1) CSL Plasma, Inc. employed claimant as a donor support technician at one of their plasma donation centers from December 13, 2022 through May 6, 2026.

(2) One of claimant's job duties was to perform routine equipment cleanings. Claimant was issued a handheld device that provided step-by-step instructions for cleaning the assigned machines. As claimant completed each step of the cleaning process, the device prompted him to initial a certification that he had completed it. The employer had a written policy prohibiting "dishonesty or falsification of information." Transcript at 12. Claimant received a copy of this policy on December 16, 2022, and at annual trainings thereafter.

¹ A copy of the administrative decision sent to the employer used a different decision number, L0017859948.

(3) On April 30, 2026, claimant was assigned to clean machines that had air filters, and as part of their step-by-step cleaning process, claimant was prompted to remove the filter and clean it in a sink before returning it to the machine. As to each machine he was assigned to clean that day, claimant certified by initialing on his handheld device that he had completed this step, but knew that he had not actually removed the air filter or attempted to clean it. A coworker reported this to the center manager, who reviewed surveillance video that depicted claimant cleaning the machines without having removed the air filters for cleaning. The center manager questioned claimant about the air filters, and he became agitated and argumentative. The center manager sent claimant home for the day and stated that they would discuss the matter on claimant's next shift, which was scheduled for May 6, 2026.

(4) On May 1, 2026, the center manager reviewed surveillance footage from April 2 and 16, 2026, which were dates on which claimant had previously been assigned to clean the same machines. The footage from April 2, 2026 depicted claimant cleaning seven of the machines without removing any air filters, and the footage from April 16, 2026 depicted claimant cleaning eleven machines and removing and cleaning the air filters of only two of them. Claimant had certified on his handheld device that he had cleaned the air filter of each assigned machine on each occasion.

(5) On May 6, 2026, when claimant reported for work, the employer discharged him for having violated their policy against falsifying information based on his false certifications that he had cleaned air filters on April 2, 16, and 30, 2026.

CONCLUSIONS AND REASONS: Claimant was discharged 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 employer discharged claimant for having falsely certified that he cleaned machine air filters on three occasions in April 2026. The employer reasonably expected that their employees would not engage

in falsification of information, and claimant was aware of this expectation. Claimant did not dispute at hearing that he failed to clean the air filters as alleged, despite certifying on the handheld device that he had done so.² The order under review concluded that with respect to the machines he was assigned to clean on April 30, 2026, claimant did not act willfully or with wanton negligence in failing to clean the air filters or falsely certifying that he had done so. Order No. 26-UI-337083 at 3. The record does not support this conclusion.

The center manager testified that when she questioned claimant on April 30, 2026 about failing to clean the air filters that day, claimant readily admitted that he had “chose[n] not to” clean them, likened the maintenance requirements of the machines to those of personal computers, and stated, “[W]hoever thinks these filters need to be cleaned weekly is an idiot.” Transcript at 6. The center manager further testified that she then directed claimant to clean the air filters, which he did, but he became increasingly angry and argumentative about the situation and toward the coworker who had reported him, and therefore was sent home. Transcript at 8-9.

Claimant did not specifically rebut this testimony, but offered several other explanations at hearing for his failure to clean the air filters. These included that the sink nearest the machines was not working properly; that the machines were difficult to pull away from the wall to gain access to the air filter; that “the monotony of the day really put stress on [him]. . . [and] overstimulated [him],” that he was “scared to talk to [the coworker who reported him] in the morning for help,” that the machines had been upgraded earlier in the year to a new model that he was less familiar with; and that he was “rushing” to complete the machine cleanings due to the impending opening of the center for the day. Transcript at 24-26, 32. Claimant testified that these factors combined to cause him to “make a wrong decision” and “have a lapse in judgment.” Transcript at 32-33. However, regardless of claimant’s reasons for deciding to skip cleaning the air filters, the record shows that the handheld device prompted him to complete that step in the cleaning process of each machine, and supports that he consciously initialed having completed that step despite knowing he had not done so. This was, at least, a wantonly negligent violation of the employer’s prohibition on falsification of information, as claimant acted with indifference to the consequences of his actions when he knew or should have known that they would probably result in such a violation.

Claimant’s conduct was not an isolated instance of poor judgment, as he falsely certified to having cleaned the air filter on nine of eleven machines on April 16, 2026, and seven machines on April 2, 2026, under similar circumstances. Claimant’s actions across all three incidents, spanning a month, were therefore repeated act and pattern of wantonly negligent conduct, rather than a single or infrequent occurrence. As such, the actions were not “isolated,” and cannot be excused as an isolated instance of poor judgment. Accordingly, claimant’s discharge was for misconduct.

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

DECISION: Order No. 26-UI-337083 is set aside, as outlined above.

² Claimant testified that he could not recall whether he had cleaned the air filters on April 2 and 16, 2026 and that, if he did not, it was due to “a lapse of judgment.” Transcript at 34.

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

DATE of Service: October 14, 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

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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