

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0776

Affirmed
No Disqualification

PROCEDURAL HISTORY: On July 23, 2026, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer with good cause and therefore was not disqualified from receiving unemployment insurance benefits based on the quit (decision # L0018862831). The employer filed a timely request for hearing. On August 26, 2026, ALJ Andersen conducted a hearing, and on August 28, 2026 issued Order No. 26-UI-338624, affirming decision # L0018862831.¹ On August 31, 2026, the employer filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: EAB considered the employer's written argument in reaching this decision.

FINDINGS OF FACT: (1) Lakeview Dental Center, LLC employed claimant as a dental assistant from 2024 through June 3, 2026.

(2) During the course of her employment, claimant frequently witnessed the dentist she was working for violate infection-control standards. These violations included scenarios such as the dentist setting a dirty instrument on a counter and then piling paperwork on top of it, and witnessing the dentist continue working without changing his gloves after he had cut one of the gloves and gotten blood on it. In the latter instance, which took place sometime in 2026, claimant had suggested to the dentist that he should change his gloves after the cut, but the dentist proceeded without doing so.

(3) As a result of the dentist's infection-control violations, claimant and her coworkers frequently had to re-sterilize equipment and workspaces after the dentist had contaminated them. Claimant also got sick multiple times as a result of these violations.

(4) The issue of the dentist's infection-control violations was regularly raised at staff meetings, but the employer did not take action when the issue was raised.

¹ Order No. 26-UI-338624 amended Order No. 26-UI-338525, issued on August 27, 2026, to correct a typographical error.

(5) On June 3, 2026, claimant was working with the dentist when she witnessed him reaching into a clean drawer while wearing dirty gloves. Because of the dentist's ongoing infection-control violations, claimant decided to resign. Later that day, claimant approached the office manager, to whom she reported directly, and gave the manager two weeks' notice of her resignation. However, shortly before claimant spoke to her, the office manager had been informed by another employee that claimant was intending to resign. As such, the office manager had prepared claimant's final paycheck, which she had ready when claimant arrived. After claimant gave her resignation, the office manager told her that working an additional two weeks was not necessary, and handed claimant her final paycheck. Claimant did not work for the employer thereafter.

CONCLUSIONS AND REASONS: Claimant was discharged, but not for misconduct.

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 parties disputed the nature of the work separation. At hearing, claimant testified that she had attempted to give her two weeks' notice to the office manager, but that the manager told her it would not be necessary for her to work an additional two weeks, and had claimant's final paycheck ready for her. Audio Record at 6:55. While the employer did not dispute this account, they nevertheless considered claimant to have voluntarily quit. *See, e.g., Employer's Written Argument at 1.*

Claimant's intention to work another two weeks for the employer shows that she was willing to continue working for them for an additional period of time.² By contrast, the employer's preparation of claimant's final paycheck and notice that she was not required to work for her final two weeks indicates that the employer was *not* willing to allow claimant to continue working for an additional period of time. As such, the work separation was a discharge which occurred on June 3, 2026.

Because the actual discharge and planned quit were within 15 days of each other, however, it is necessary to determine whether ORS 657.176(7) applies to the work separation. That provision states:

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).

Thus, to determine whether ORS 657.176(7) applies, it must also be determined whether either the actual discharge, or planned voluntary quit, would have been disqualifying.

² The record does not show that claimant gave the employer a specific date on which she intended to quit. As such, it can be inferred from claimant's assertion that she was giving notice that she intended to quit exactly two weeks after the date on which she gave her notice: June 17, 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 discharged claimant on June 3, 2026, in lieu of permitting her to work her two-week notice period before resigning. At hearing, the office manager did not clearly explain why she decided to discharge claimant, but the record suggests that the decision was merely the result of claimant having given notice of her resignation. As doing so is not a violation of the standards of behavior that an employer has the right to expect of an employee, the employer has not met their burden to show that they discharged claimant for misconduct.

Planned 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 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 gave notice of her intention to quit because of the dentist’s regular and ongoing violations of infection-control standards. These ongoing violations created unsanitary conditions that required claimant and her coworkers to re-sterilize equipment and work surfaces, and which caused claimant to become sick on multiple occasions. As such, claimant’s circumstances were grave.

At hearing, claimant testified that she had spoken to the office manager about the situation multiple times; and that the manager, in turn, had told claimant that she had raised the issue with the dentist before, but that the dentist had refused to change his practices. Audio Record at 11:50 to 12:30. The office manager, by contrast, testified that claimant had never raised the issue with her, and that she had never heard any concerns about the dentist’s adherence to infection-control standards, but that she would have addressed the issue with the dentist had she been so told. Audio Record at 26:00 to 26:22. The employer likewise asserted in their written argument that “management was [not] adequately informed of the alleged concerns before claimant resigned,” thereby suggesting that doing so would have been a reasonable alternative to quitting. Employer’s Written Argument at 1. Despite this, the office manager did not rebut the assertion that the matter had been raised at staff meetings.

Furthermore, the office manager characterized the dentist as an “interesting” doctor who “has his ways of doing things.” Audio Record at 26:15. This suggests that the manager was at least aware, to some extent, that the dentist’s practices varied from what would usually be expected of a practitioner. Thus,

the record shows, by a preponderance of the evidence, that the office manager knew or at least had reason to know of the issues with the dentist's failure to follow infection-control standards.

Additionally, even if claimant never told the office manager about the issue with the dentist, and the office manager was not otherwise aware of it, the record does not show that the office manager could have done anything to convince the dentist to change his ways. The record does not show whether the dentist in question was the owner of the practice or an employee, but the fact that his poor sanitation habits were known by the staff but persisted for so long suggests that he was not required to answer to anyone else at the practice. As such, the record does not show, by a preponderance of the evidence, that claimant speaking to the office manager would have been likely to result in the dentist changing his habits and adhering to infection-control standards. Thus, doing so would likely have been futile, and not a reasonable alternative.

For the above reasons, claimant's planned voluntary quit would have been with good cause. Because both the actual discharge and planned voluntary quit were not disqualifying, ORS 657.176(7) does not apply. Instead, the work separation is properly adjudicated as a discharge, not for misconduct, which occurred on June 3, 2026. Claimant therefore is not disqualified from receiving benefits based on the work separation.

DECISION: Order No. 26-UI-338624 is affirmed.

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

DATE of Service: October 13, 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.

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.

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