EO: Intrastate
BYE: 05-Jun-2027

State of Oregon
Employment Appeals Board
875 Union St. N.E.
Salem, OR 97311

324
VQ 005.00
MC 010.05

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0817

Affirmed
Disqualification
Overpayment

PROCEDURAL HISTORY: On August 4, 2026, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause and was disqualified from receiving unemployment insurance benefits effective May 31, 2026, and that claimant was overpaid $2,412 in benefits that she must repay to the Department (decision # L0019102481).[1] Claimant filed a timely request for hearing. On September 1, 2026, ALJ Janzen conducted a hearing, and on September 2, 2026 issued Order No. 26-UI-339016, affirming decision # L0019102481, as amended. On September 4, 2026, claimant filed an application for review with the Employment Appeals Board (EAB).

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

FINDINGS OF FACT: (1) Paychex Business Solutions, LLC employed claimant on behalf of Hunsaker Dental, LLC, most recently from April 17, 2024 through June 5, 2026.[2] Claimant worked as a surgical dental assistant and was paid approximately $1,200 per week.

(2) In April 2026, claimant commented in a group chat of some of her coworkers that she saw two coworkers having lunch together in a car. Claimant mentioned this observation because she believed one coworker was romantically interested in the other. Claimant's comment came to the attention of the employer by late May 2026.

(3) On June 1, 2026, the employer issued claimant a "final" warning for having made the comment, which they considered to be in violation of their expectation that employees not gossip about one

[1] On August 27, 2026, the Department issued decision # L0019439772, which made a non-substantive amendment to decision # L0019102481. Claimant's request for hearing was applied to the amended decision.

[2] Hunsaker Dental, LLC is referred to as "the employer" in this decision.

another. Exhibit 1 at 13. The warning came with a one-week unpaid suspension from June 9 through 15, 2026, and a 90-day probationary period during which claimant was ineligible for bonus earnings or similar incentive pay. The warning set out specific expectations for maintaining professional communications in the workplace, prohibited claimant from further discussing the incident or discipline, and stated that she could be discharged for any future policy violation.

(4) Claimant paid $400 per week for childcare during the hours she worked, and the provider required a two-week notice when terminating their services. Claimant would therefore be liable for the $400 payment during the week she was suspended from work and would not need childcare.

(5) Claimant acknowledged that her comment that led to the June 1, 2026 warning was inappropriate but believed that the disciplinary process was unfair in that she was not permitted to fully explain to an impartial party her intent in making the statement, and because the consequences imposed were too harsh in light of the nature of the offense and her lack of any disciplinary history. Claimant feared that because her conduct had unintentionally violated the employer's policy, she faced a risk of being discharged under similar circumstances during the probationary period.

(6) On June 4, 2026, the employer held a meeting with the employees involved in the group chat and removed claimant from the group chat. This caused other employees to question whether claimant had been discharged, and claimant felt that she was not free to clarify her employment status with them because she had been directed not to discuss the incident or her discipline.

(7) On June 5, 2026, claimant gave notice of her resignation with immediate effect. Claimant quit work because she felt that the suspension that was about to commence and its corresponding financial impacts were undeserved, and because she feared being suddenly discharged following the suspension if later accused, even unjustifiably, of another policy violation. Claimant considered that such a discharge could result in her being liable for $800 in unneeded childcare expenses in the two weeks that followed the discharge, added to the $400 in unneeded childcare expenses she would accrue during the week of the scheduled suspension. Claimant reasoned that resigning prior to the suspension would limit her potential liability to a total of $800 for the two weeks following her resignation.

(8) On June 8, 2026, claimant filed an initial claim for unemployment insurance benefits that the Department determined was monetarily valid with a weekly benefit amount of $402. Claimant claimed benefits for the weeks of June 14, 2026 through July 25, 2026 (weeks 24-26 through 29-26), and was paid a total of $2,412 in benefits for those weeks. Claimant accurately reported separation information on the claim. The Department concluded that claimant was not entitled to those benefits due to the work separation disqualification and was therefore overpaid, but has waived recovery of the overpayment.[3]

CONCLUSIONS AND REASONS: Claimant quit work without good cause. Claimant was overpaid $2,412 in benefits that she was liable to repay to the Department, but recovery has since been waived.

[3] EAB has taken notice of this fact, which is contained in Employment Department records. OAR 471-041-0090(1) (May 13, 2019). Any party that objects to EAB taking notice of this information must send their objection to EAB in writing, stating why they object, within ten days of EAB mailing this decision. OAR 471-041-0090(2). Unless EAB receives and agrees with the objection, the noticed fact will remain in the record.

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) (September 22, 2020). "[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 she disagreed with the employer's decision to discipline her and did not want to return, following her suspension, to the work environment that she felt was responsible for that discipline. Claimant acknowledged that her comment in the group chat violated the employer's expectation regarding workplace gossip, but felt unfairly treated in being disciplined regarding both the severity of the discipline and the process by which it was determined. Claimant was understandably dismayed by the financial impact of the discipline, which would have included the loss of a week's wages while she was suspended from work and ineligibility for incentive pay for 90 days. Adding to claimant's concern was that she would have remained liable for unneeded childcare expenses during the week of the suspension, and for two additional future weeks if she were to be suddenly discharged sometime after returning to work. Claimant felt that she did not have adequate notice of what she was being accused of when questioned about the incident, that it was unfair for the employer's owners or managers to investigate the matter rather than a "neutral" party, and that the investigation mischaracterized her comments about the coworkers as "false allegations" and "malicious rumors" rather than "observations and opinions." Exhibit 1 at 42.

The employer specifically outlined their expectations for claimant's conduct following the warning, and the record does not suggest that claimant would have been unable to meet those expectations. Nevertheless, claimant feared being unjustly accused of violating the expectations and being discharged in the future for that reason. The record does not support that the employer's investigation of claimant's comments was so biased or its conclusions so inaccurate as to constitute a grave situation, since by making the comment claimant did engage in gossip about coworkers, which the employer had reasonably prohibited. A reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would not quit work due to the mere possibility of an unjust discharge based on unspecified future events occurring, even taking into account claimant's experience with the employer's disciplinary process.

Similarly, such a person would not quit work due to the actual or potential financial impact of these events. The week of lost wages during the suspension and the temporary ineligibility to earn incentive pay thereafter were not mitigated by claimant quitting work prior to the suspension and earning no wages at all. Had claimant remained working for the employer, the potential loss to her in unneeded childcare expenses in the event of a future discharge would also likely be outweighed by the benefit of her continuing to earn $1,200 in weekly wages through the time of such discharge, if it ever occurred.[4]

[4] *See Oregon Public Utility Commission v. Employment Dep't.*, 267 Or App 68, 340 P3d 136 (2014) (for a claimant to have good cause to voluntarily leave work, the claimant must derive some benefit for leaving work).

Accordingly, claimant has not shown that she faced a situation of such gravity that she had no reasonable alternative but to leave work when she did, and therefore she quit without good cause.

For these reasons, claimant quit work without good cause and is disqualified from receiving benefits effective May 31, 2026.

Overpayment. A claimant who was overpaid benefits because of an error not caused by the claimant's false statement, misrepresentation of a material fact or failure to disclose a material fact, or because an initial decision to pay benefits is later reversed by a decision finding the individual is not eligible for the benefits, must have the amount deducted from future benefits otherwise payable to them. An overpayment may only be deducted from any future benefits the claimant is eligible to receive within the five years after the decision concluding there was an overpayment becomes final. ORS 657.315(1)(a).

Claimant was disqualified from receiving benefits based on the work separation, effective May 31, 2026. The record shows that claimant had not requalified for benefits through earnings in subsequent employment as of July 25, 2026. Therefore, claimant was not entitled to the benefits she received for the weeks between those dates, which totaled $2,412. The Department's representative at hearing testified that claimant provided accurate information regarding the work separation and was not at fault for the overpayment. Transcript at 6. Therefore, recovery of the overpayment is governed by ORS 657.315(a)(1). However, the record shows that the Department waived recovery of the $2,412 overpayment, and for that reason claimant is not liable for further repayment.

DECISION: Order No. 26-UI-339016 is affirmed.

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

DATE of Service: October 21, 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 – 本判决会影响您的失业救济金。 如果您不明白本判决， 请立即联系就业上诉委员会。 如果您不同意此判决，您可以按照该判决结尾所写的说明，向俄勒冈州上诉法院提出司法复审申请。

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 ໄດ້ ໂດຍປະຕິບັດຕາມຄຳແນະນຳທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄຳຕັດສິນນີ້.

Arabic

هذا القرار قد يؤثر على منحة البطالة الخاصة بك، إذا لم تفهم هذا القرار، إتصل بمجلس منازعات العمل فورا، و إذا كنت لا توافق على هذا القرار، يمكنك رفع شكوى للمراجعة القانونية بمحكمة الإستئناف 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 دستورالعمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

Employment Appeals Board - 875 Union Street NE | Salem, OR 97311
Phone: (503) 378-2077 | 1-800-734-6949 | Fax: (503) 378-2129 | TDD: 711
Email: *appealsboard@employ.oregon.gov*
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