EO: Intrastate
BYE: 17-Apr-2027

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

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VQ 005.00
MC 010.05

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0873

Reversed
No Disqualification
No Overpayment

PROCEDURAL HISTORY: On August 10, 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 beginning June 7, 2026; and had been overpaid $1,632 in benefits that she was required to repay to the Department (decision # L0019020905). Claimant filed a timely request for hearing. On September 1, 2026, ALJ Laurie-Gardiner conducted a hearing at which the employer failed to appear and issued Order No. 26-UI-338815, affirming decision # L0019020905. On September 16, 2026, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant did not state that she provided a copy of her argument to the employer as required by OAR 471-041-0080(2)(a) (May 13, 2019). The argument also contained information that was not part of the hearing record and did not show that factors or circumstances beyond claimant's reasonable control prevented her from offering the information during the hearing as required by OAR 471-041-0090 (May 13, 2019). EAB considered only the information received into evidence at the hearing. *See* ORS 657.275(2).

FINDINGS OF FACT: (1) On April 21, 2026, claimant filed an initial claim for unemployment insurance benefits. The Department established claimant's weekly benefit amount at $204.

(2) SAS Retail Merchandising, LLC employed claimant as a retail stocker from June 2 through 11, 2026. Claimant's duties included stocking and merchandising inventory at grocery stores that contracted with the employer.

(3) Claimant is a senior citizen and has a husband who is "a lot older than" her and had health issues. Transcript at 12. Because of her husband's health issues, claimant had to regularly take care of him, as well as their animals.

(4) When claimant was hired, the employer told her that she could expect to work 32 hours per week. For claimant's first week of employment, the week ending June 6, 2026, claimant was originally scheduled to work 32 hours, but the employer ultimately only allowed her to work 24 hours that week because a supervisor had gotten injured and was unable to work.

(5) For claimant's second week of employment, the employer originally scheduled claimant to work at a store in Seattle for June 8 through 12, 2026. On the June 7, 2026, shortly before claimant left for the Seattle trip, the employer contacted claimant to notify her that the trip had been cancelled, and that they had no other work for her for that week.

(6) Claimant became frustrated with the employer's failure to provide her with a reliable schedule, which she needed to care for her husband and animals. As such, on or around June 7, 2026, claimant raised this issue with the employer and requested that they notify her two weeks in advance of what her schedule would be. On June 9, 2026, the employer told claimant that this would not be possible.

(7) On June 11, 2026, claimant quit work because the employer had not been giving her sufficient hours, and because they would not give her sufficiently advance notice of when she was to work.

(8) Claimant filed weekly claims for the weeks of June 7, 2026 through August 1, 2026 (weeks 23-26 through 30-26). These are the weeks at issue. The Department paid claimant a total of $1,632 for the weeks at issue.

(9) When claimant filed her weekly claim for the week of June 7 through 13, 2026 (week 23-26), claimant attempted to report that she had quit a job that week, but was unable to properly report it at that time because of an issue she was having with the weekly claim form. Claimant attempted to report the separation by alternate means but the Department did not receive this information. On June 26, 2026, the Department sent claimant a message inquiring about the work separation, and claimant responded on June 28, 2026 by informing the Department that she had quit her job.

(10) Had claimant initially reported the work separation on her claim for week 23-26, they would not have paid her benefits until they adjudicated the separation to determine if it was disqualifying. On August 10, 2026, the Department issued decision # L0019020905, which concluded that claimant was disqualified from receiving benefits effective June 7, 2026 due to the work separation, and had therefore been overpaid benefits for the weeks at issue.

CONCLUSIONS AND REASONS: Claimant quit work with good cause. Claimant was not overpaid benefits that she is required to repay to the Department.

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) (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).

Per OAR 471-030-0038(5)(b)(A), leaving suitable work to seek other work is not good cause. In determining whether any work is suitable for an individual, the Department shall consider, among other factors, the degree of risk involved to the health, safety and morals of the individual, the physical fitness and prior training, experience and prior earnings of the individual, the length of unemployment and prospects for securing local work in the customary occupation of the individual and the distance of the available work from the residence of the individual. ORS 657.190.

Claimant quit work because the employer had not been giving her enough hours, and because they could not give her sufficient advanced notice of when she was to work. Although claimant's concerns about not being given enough hours is understandable, claimant did not show that this was, itself, a grave situation. However, claimant was the apparent sole caretaker of her elderly husband, who had health issues, and their animals, and required a predictable schedule so that she could properly take care of them. Given this, claimant's inability to obtain a predictable schedule from the employer was, in this context, grave.

Additionally, claimant had no reasonable alternative but to quit. The record shows that claimant spoke to the employer and requested that they provide her with notice of her schedule two weeks in advance, but the employer told her that this would not be possible. The record lacks any indication that the employer would have been otherwise willing to provide claimant with any other sort of predictable scheduling arrangement. As such, claimant more likely than not had no other options available to her that would have resulted in a predictable schedule around which she could plan for care of her husband and animals.

Finally, claimant testified at hearing that she did not continue on the employer's payroll and remain "available for… some other opportunity when it arises" because she needed a "steady income[.]" Transcript at 30–31. Thus, it can be inferred that claimant intended to seek more regular, full-time work when she quit. To the extent that she quit in order to seek other work, however, OAR 471-030-0038(5)(b)(A) does not bar a finding of good cause in this matter because the position with the employer was not suitable for her. As discussed above, claimant's need to care for her husband and animals required a predictable schedule, and the employer could not accommodate this need. Thus, considering claimant's health, safety and morals in light of her need to provide care, the work was not suitable, and claimant therefore did not quit suitable work to seek other work.

In sum, claimant quit work with good cause, and is not disqualified from receiving benefits based on the work separation.

Overpayment. A claimant who was overpaid benefits because the claimant, regardless of their knowledge or intent, made or caused to be made a false statement or misrepresentation of a material fact, or failed to disclose a material fact, must repay the benefits or have the benefit 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 657.310(1)(a).

The Department, as affirmed by the order under review, determined that claimant was overpaid benefits for the weeks at issue because she had quit work without good cause and therefore was disqualified from

receiving benefits effective June 7, 2026. Order No. 26-UI-338815 at 5. However, as explained above, the record shows that claimant had good cause for quitting, and therefore is *not* disqualified from receiving benefits based on the work separation. Therefore, claimant was not overpaid benefits for the weeks at issue, and is not liable for an overpayment that she must repay to the Department.

DECISION: Order No. 26-UI-338815 is set aside, as outlined above.

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

DATE of Service: November 4, 2026

NOTE: This decision reverses the ALJ's order denying claimant benefits. Please note that in most cases, payment of benefits owed will take about a week for the Department to complete.

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
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