

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-1087

Affirmed
Overpayment Assessed

PROCEDURAL HISTORY: On February 9, 2011, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for Donald Tavern LLC (Donald Tavern) without good cause (decision # 154643). Claimant filed a timely request for hearing. On February 24, 2011, the Office of Administrative Hearings (OAH) served notice of a hearing scheduled for March 10, 2011. On March 10, 2011, claimant failed to appear at the hearing, and ALJ D. Hall issued Hearing Decision 11-UIB-06878-D, dismissing claimant's request for hearing due to his failure to appear. On March 30, 2011, Hearing Decision 11-UIB-06878-D became final without claimant having filed a request to reopen the hearing. On April 14, 2011, the Department served notice of an administrative decision concluding that claimant quit working for McMurray & Sons Inc. (McMurray & Sons) without good cause (decision # 84206). On May 4, 2011, decision # 84206 became final without claimant having requested a hearing.

On April 15, 2011, the Department served notice of an overpayment decision, based in part on decision # 154643 and decision # 84206, concluding that claimant was overpaid \$6,189 in benefits that he must repay, disqualified for 52 weeks of future benefits, and assessed a \$928 monetary penalty. On May 5, 2011, the overpayment decision became final without claimant having requested a hearing. On July 25, 2018, claimant filed a late request for hearing. On August 1, 2018, OAH served notice of a hearing scheduled for August 15, 2018. On August 15, 2018, claimant failed to appear at the hearing, and ALJ S. Lee issued Order No. 18-UI-114998, dismissing claimant's request for hearing due to his failure to appear. On September 4, 2018, Order No. 18-UI-114998 became final without claimant having filed a request to reopen the hearing. On October 3, 2018, claimant filed a late request to reopen the hearing. On October 30, 2018, ALJ S. Lee conducted a hearing, and on November 2, 2018 issued Order No. 18-UI-119159, granting claimant's request to reopen the August 15, 2018 hearing, allowing claimant's request for hearing on the overpayment decision, and concluding that claimant was overpaid \$6,189 in benefits that

he must repay the Department, but not disqualified from future benefits or assessed a monetary penalty. On November 19, 2018, claimant filed an application for review of Order No. 18-UI-119159 with the Employment Appeals Board (EAB).¹

EAB reviewed the entire hearing record. Claimant failed to certify that he provided a copy of his written arguments to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). EAB therefore did not consider the arguments when reaching this decision.

On *de novo* review and pursuant to ORS 657.275(2), the Order under review is **adopted**.

DECISION: Order No. 18-UI-119159 is affirmed.

D. P. Hettle and S. Alba;
J. S. Cromwell, not participating.

DATE of Service: December 19, 2018

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 listed above. *See* ORS 657.282. For forms and information, you may write to the Oregon Court of Appeals, Records Section, 1163 State Street, Salem, Oregon 97310 or visit the Court of Appeals website at courts.oregon.gov. Once on the website, use the ‘search’ function to search for ‘petition for judicial review employment appeals board’. A link to the forms and information will be among the search results.

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¹ On November 5, 2018, claimant filed a late request for hearing on decision # 84206, and a late request to reopen the March 10, 2011 hearing on decision # 154643. On November 26, 2018, ALJ Kangas issued Order No. 18-UI-120201, dismissing claimant’s request for hearing on decision # 84206 as untimely without a showing of good cause, subject to claimant’s right to renew the request by responding to an appellant questionnaire by December 10, 2018. On November 28, 2018, ALJ Kangas issued Order No. 18-UI-120381, dismissing claimant’s request to reopen the March 10, 2011 hearing on decision # 154643 as untimely without a showing of good cause.



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 desisyong ito.

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 Asuntos Laborales. Si no está de acuerdo con esta decisión, puede presentar una Petición 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 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 دستور العمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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