

EMPLOYMENT APPEALS BOARD DECISION
2019-EAB-0001

Late Applications for Review Dismissed

PROCEDURAL HISTORY: On August 29, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit working for Reimers & Jolivette, Inc. without good cause and was disqualified from receiving benefits beginning March 11, 2018 (decision # 133013). On August 29, 2018, the Department served notice of a second administrative decision concluding that claimant voluntarily quit working for Swinerton Builders Northwest, Inc. without good cause and was disqualified from receiving benefits beginning April 29, 2018 (decision # 143304). Claimant filed timely requests for hearing on both decisions.

On September 28, 2018, ALJ Meerdink conducted hearings and issued Order No. 18-UI-117374 concluding that claimant voluntarily quit working for Swinerton Builders Northwest, Inc. without good cause but establishing April 22, 2018 as the effective date of disqualification. On October 3, 2018, ALJ Meerdink issued Order No. 18-UI-117644 concluding that claimant voluntarily quit working for Reimers & Jolivette, Inc. without good cause but establishing March 4, 2018 as the effective date of the disqualification. On October 18, 2018, Order No. 18-UI-117374 became final without claimant having filed an application for review with the Employment Appeals Board (EAB). On October 23, 2018, Order No. 18-UI-117644 became final without claimant having filed an application for review with EAB. On December 19, 2018, claimant filed late applications for review of Order No. 18-UI-117644 and Order No. 18-UI-117374 with EAB.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Order No. 18-UI-18-UI-117374 and Order No. 18-UI-117644. EAB considered claimant's written argument when reaching this decision. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2018-EAB-0001 and 2018-EAB-0002).

FINDING OF FACT: Order No. 18-UI-18-UI-117374 and Order No. 18-UI-117644 both stated:

You may appeal this decision by filing the attached form Application for Review with the Employment Appeals Board within 20 days of the date that this decision is mailed. *See* ORS 657.270(4). If you have questions, please refer to the enclosed publication "Rights of Review of a Hearing Decision" (UI Pub 15). If you did not receive a copy of "Rights

of Review of a Hearing Decision” with this decision, call the Office of Administrative Hearings at 1-800-311-3394 to request a copy.¹

CONCLUSIONS AND REASONS: Claimant’s applications for review of Order No. 18-UI-117374 and Order No. 18-UI-117644 are dismissed as untimely without good cause to extend the filing deadlines to December 19, 2018.

An application for review is timely if it is filed within 20 days of the date that OAH mailed the hearing order sought to be reviewed. OAR 471-041-0070(1) (March 20, 2014). The 20 day filing period may be extended a “reasonable time” upon a showing of “good cause.” OAR 471-041-0070(2). “Good cause” means that factors or circumstances beyond the applicant’s reasonable control prevented timely filing OAR 471-040-0070(2)(a). A “reasonable time” is seven days after the circumstances that prevented the timely filing ceased to exist. OAR 471-041-0050(2)(b). OAR 471-041-0065 (October 29, 2006).

Here, the application for review of Order No. 18-UI-117374 was due by October 18, 2018, and the application for review of Order No. 18-UI-117644 was due by October 23, 2018. Claimant did not file his applications for review until December 19, 2018. In his written argument, claimant stated, “I know this is very late, but I did not see the hearing request letter until it was past the deadline. There was a death in in my family and I have been so busy with starting a new job and taking care of my young family, that I was not able to take care of this case in time.”

Claimant therefore is asserting that the above personal issues prevented him from filing timely applications for review of Order No. 18-UI-18-UI-117374 and Order No. 18-UI-117644. However, claimant failed to show how those personal issues prevented him from seeing and reading the Orders, the Application for Review forms attached to the Orders, or the “Rights of Review of a Hearing Decision” publications enclosed with the Orders, until after the deadlines for filing his applications for review had passed. Nor did claimant show that he filed his applications for review within a reasonable time, seven days, after the factors or circumstances that allegedly prevented timely filings ceased to exist. Claimant therefore failed to establish good cause to extend the filing deadlines to December 19, 2018, and his late applications for review are dismissed.

DECISION: The applications for review filed December 19, 2018 are dismissed. Order No. 18-UI-117644 and Order No. 18-UI-117374 remain undisturbed.

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

DATE of Service: January 16, 2019

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

¹ Order No. 18-UI-18-UI-117374 and Order No. 18-UI-117644 at 2-3.

'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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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 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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