

**EMPLOYMENT APPEALS BOARD DECISION**  
**2019-EAB-0062**

*Affirmed*  
*Late Request for Hearing Dismissed*

**PROCEDURAL HISTORY:** On June 30, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision assessing a \$9,056 overpayment, \$2,716.80 monetary penalty, and 52 penalty weeks (decision # 193357). On July 20, 2017, decision # 193357 became final without claimant having filed a timely request for hearing. On November 15, 2018, claimant filed a late request for hearing. On November 19, 2018, ALJ Kangas issued Order No. 18-UI-119960, dismissing claimant's late request for hearing subject to his right to renew the request by responding to an appellant questionnaire by December 3, 2018. On November 29, 2018, claimant responded to the questionnaire. On December 4, 2018, the Office of Administrative Hearings (OAH) mailed a letter stating that Order No. 18-UI-119960 was canceled. On December 27, 2018, ALJ R. Frank conducted a hearing, and on December 28, 2018 issued Order No. 18-UI-121888, re-dismissing claimant's late request for hearing. On January 16, 2018, claimant filed an application for review with the Employment Appeals Board (EAB).

With his application for review, claimant submitted a written argument asking for another opportunity to state his case because he did not get the opportunity to do so at the hearing. Although it does appear that claimant wanted to ask questions at the end of the hearing, after the ALJ had concluded the hearing and disconnected from the hearing line, the record shows that claimant had a full and fair opportunity to testify. Specifically, the ALJ asked question pertinent to the late request for hearing issue, then stated, "That's all the questions I have, sir. Is there any other testimony you want to offer regarding this timeliness issue that we haven't covered?" Audio recording at 21:51. When claimant did not answer, the ALJ clarified that he was asking claimant if he had additional testimony about "whether your appeal was timely, or if not whether there was good cause to extend the appeal period." *Id.* at 22:25. Claimant replied, "No." *Id.* at 22:32. Claimant had a hearing and is not entitled to another one on this issue.

Claimant also argued that the basis of decision # 193357 is wrong because he was filing for unemployment against a different company, not against Duct Guys, and because he "was on unemployment for a different company" he did not feel he should have to pay back the benefits he received. That argument does not affect the outcome of this case. First, because claimant filed a late request for hearing in this case and did not show good cause to extend the filing deadline he has lost his

legal right to dispute the overpayment. Second, claimant's belief that his Duct Guys employment should not have affected his claim is incorrect. Unemployment insurance claims are specific to workers, not employers. Any employment claimant had in his base year and claim year might affect how his claim is funded and whether benefits are payable to him. Therefore, even if claimant had the legal right to dispute the overpayment in this case, which he does not, it does not matter whether or not claimant intended his Duct Guys employment to affect his unemployment insurance claim. The law does not give claimant the right to choose which employers are affected by his unemployment insurance claim, and the Department is legally required to investigate any issues that arise and is legally required to determine the effect the issue should have on the worker's claim. Therefore the fact that claimant did not intend his work for Duct Guys to affect this unemployment insurance claim cannot change the fact that it did.

Finally, claimant asked in his written argument that if he must pay back the overpayment and penalties to the Department if there is a way to negotiate the amount of the garnishment so that it is smaller than 20% of his paycheck, citing financial difficulties and his obligations as a single parent. EAB does not have jurisdiction over repayment issues. If claimant has any questions about repaying his debt or asking to negotiate a payment plan, he must contact the Department's overpayment recovery unit directly, at 503-947-1710.

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

**DECISION:** Order No. 18-UI-121888 is affirmed.

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

**DATE of Service:** February 8, 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](http://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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# 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 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 ໄດ້ ໂດຍປະຕິບັດຕາມຄໍາແນະນໍາທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄໍາຕັດສິນນີ້.

**Arabic**

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**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.

**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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