

EMPLOYMENT APPEALS BOARD DECISION
2019-EAB-0133

Late Applications for Review Dismissed

PROCEDURAL HISTORY AND FINDINGS OF FACT: On October 15, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit working for Avamere Health Services without good cause (decision # 101645). On October 15, 2018, the Department also served notice of a second administrative decision concluding that Accentcare Inc., discharged claimant for misconduct connected with work (decision # 82643). Claimant filed a timely request for hearing on both decisions. On November 13, 2018, the Office of Administrative Hearings (OAH) served notices of telephone hearings scheduled for November 27, 2018, at 8:15 a.m., and 9:30 a.m. On November 27, 2018, ALJ Scott convened the hearings and issued Orders No. 18-UI-120292 and No. 18-UI-120291, dismissing claimant's request for hearing on decisions #101645 and # 82643 because claimant failed to appear at the hearings.

On January 11, 2019, claimant filed a late request to reopen both hearings. ALJ Kangas reviewed the request, and on January 14, 2019 issued Orders No. 19-UI-122660 and No. 19-UI-122665 dismissing the request. On February 4, 2019, Orders No. 19-UI-122660 and No. 19-UI-122665 became final without claimant having filed an application for review with the Employment Appeals Board (EAB). On February 6, 2018, claimant filed late applications for review of Order No. 19-UI-122660 and Order No. 19-UI-122665 with EAB.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Order No. 19-UI-122660 and Order No. 19-UI-122665. EAB considered claimant's written argument when reaching this decision. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2019-EAB-0132 and 2019-EAB-0133).

CONCLUSIONS AND REASONS: Claimant's applications for review of Order No. 19-UI-122660 and Order No. 19-UI-122665 are dismissed as untimely without good cause to extend the filing deadlines.

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 applications for review of Order No. 9-UI-122660 and Order No. 19-UI-122665 were due by February 4, 2019. Claimant did not file her applications for review until February 6, 2019. In her written argument, claimant stated, “I am writing to apologize for the tardiness of my application for review. My significant other was hospitalized for an acute injury that required surgery and following that there was an accident that left us with only one running vehicle we have been working with insurance to try and get resolved so that we had transportation with only one car follow up care has been time consuming and difficult.”

Claimant therefore is asserting that the above personal issues prevented her from filing timely applications for review of Order No. No. 9-UI-122660 and Order No. 19-UI-122665. However, claimant did not state when her significant other was hospitalized and underwent surgery, or when the accident occurred that left them with only one running vehicle. Nor did claimant show how those issues, working with the insurer to resolve the situation with their vehicle, or managing her partner’s follow up care with only one vehicle, prevented her from filing her applications for review by February 4, 2019, but not by February 6, 2019. Claimant therefore failed to establish good cause to extend the filing deadlines, and her 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: February 15, 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 ‘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

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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