

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

**ALEMBE C SERAYA**  
**13060 SE RUSK RD APT 18**  
**PORTLAND, OR 97222 2299**

**THOMAS AND COMPANY, INC**  
**FOR: NATURE BAKE**  
**PO BOX 280100**  
**NASHVILLE, TN 37228**

*Reversed & Remanded*

**PROCEDURAL HISTORY:** On December 6, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer with good cause (decision # 94914). The employer filed a timely request for hearing. On January 18, 2019, the Office of Administrative Hearings (OAH) served notice of a hearing scheduled for January 31, 2019 at 9:30 a.m. On January 31, 2019, ALJ Scott conducted a hearing at which claimant failed to appear, and on February 1, 2019 issued Order No. 19-UI-123863, concluding that claimant did not have good cause to quit working for the employer. On February 11, 2019, claimant filed an application for review with the Employment Appeals Board (EAB).

With his application for review claimant submitted a written argument. EAB considered claimant's written argument when reaching this decision.

**FINDINGS OF FACT:** (1) Claimant received the notice of hearing scheduling the January 31, 2019 hearing and planned to attend. Claimant misread the notice of hearing and thought that he would receive a call from OAH. However, at 9:25 a.m. claimant realized he had to call into the hearing. A couple minutes before the 9:30 a.m. hearing claimant began attempting to call into the hearing conference line as instructed on the notice of hearing. He was unable to complete the call.

(2) After making exhaustive attempts to call into the hearing conference line at 9:36 a.m., claimant reached someone at OAH who also tried for several minutes to connect him to the hearing, but was unable to. At that point, claimant was told that he would have to request an appeal after he received the hearing order.

**CONCLUSIONS AND REASONS:** Order No. 19-UI-123863 is reversed and this matter remanded for another hearing on the merits.

In his application for review, claimant asked for another hearing on whether he should be disqualified from receiving benefits based on his work separation from the employer. Claimant's request is construed as a request for consideration of new information under OAR 471-041-0090 (October 29, 2018). Under OAR 471-041-0090(2) new information may be considered when the party offering the information

establishes that factors or circumstances beyond the party's reasonable control prevented the party from offering the information into evidence at the hearing.

In support of his request, claimant stated that he attempted to call into the hearing conference line from approximately 9:27 a.m. until 9:36 a.m., but was unable to complete the call. Claimant also asserted that he reached OAH at 9:36 a.m. and they tried for several minutes to connect him to the hearing, but were unable to. Claimant's inability to complete the call or be connected by OAH staff to the hearing resulted from factors or circumstances beyond his reasonable control which prevented him from appearing at the hearing to offer his information into evidence. Claimant's request for consideration of new information under OAR 471-041-0090(2) therefore is allowed. Order No. 19-UI-123863 therefore is reversed, and this matter remanded for another hearing on whether claimant is disqualified from receiving benefits based on his work separation from the employer.

**DECISION:** Order No. 19-UI-123863 is set aside, and this matter remanded for further proceedings consistent with this order.

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

**DATE of Service:** March 1, 2019

**NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Hearing Decision 16-UI-54652 or return this matter to EAB. Only a timely application for review of the subsequent hearing decision will cause this matter to return to EAB.

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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 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 باتباع 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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