

**EMPLOYMENT APPEALS BOARD DECISION**  
**2019-EAB-0190**

*Application for Review Dismissed*

**FINDINGS OF FACT AND PROCEDURAL HISTORY:** On August 16, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision assessing a \$2640 overpayment, \$792 monetary penalty, and 44 penalty weeks (decision # 194640). On September 5, 2018, decision # 194640 became final without claimant having filed a timely request for hearing. On October 26, 2018, claimant filed a late request for hearing. On October 31, 2018, ALJ Kangas issued Order No. 18-UI-119026, dismissing claimant's late request for hearing subject to claimant's right to review the request by responding to an appellant questionnaire by November 14, 2018. Claimant did not timely respond to the appellant questionnaire, and Order No. 18-UI-119026 became final on November 20, 2018 without claimant having filed an application for review. On February 13, 2019, claimant submitted a late response to the appellant questionnaire. On February 14, 2019, ALJ Kangas issued a letter stating the claimant's response to the appellant questionnaire was untimely and would not be considered. On February 19, 2019, claimant filed what has been construed as an application for review of Order No. 18-UI-119026 with the Employment Appeals Board (EAB).

**CONCLUSIONS AND REASONS:** The application for review should be dismissed.

ORS 657.270(6) and ORS 657.270(7)(c) required the application for review of Order No. 18-UI-119026 to be filed no later than November 20, 2018. Claimant did not file an application for review by that date. On February 19, 2019, the appellant filed a document with the Department that has been construed as an application for review of Order No. 18-UI-119026. That filing is several months late.

The deadline for filing an application for review may be extended under certain circumstances under ORS 657.875 and OAR 471-041-0070. Before an extension may be allowed, however, the party filing the late application for review must prove by a preponderance of the evidence that he had “good cause” for the late application for review, which means that factors or circumstances beyond his reasonable control prevented him from filing a timely application for review, and that he filed his late application for review within a “reasonable time,” which means seven days of the date those circumstances ceased to exist. OAR 471-041-0070(2).

Claimant’s February 13<sup>th</sup> late response to the appellant questionnaire (via email) cited the reasons for his late request for hearing on decision # 194640 and described personal circumstances affecting him while filing his claim and appeal, including a relative’s death, depression, a change of address, and some missed letters. We also considered the contents of claimant’s February 19<sup>th</sup> and February 20<sup>th</sup> emails. We are unable to determine from claimant’s statements in any of those three emails what specific circumstances prevented him from filing a timely application for review of Order No. 18-UI-119026 between October 31, 2018 and November 20, 2018, what date those circumstances ended, and whether that date was within seven days of February 13<sup>th</sup> or February 19<sup>th</sup>, the date he filed a late response to the appellant questionnaire and his application for review in this case. Without that sort of specific information, the application for review deadline may not be extended, the application for review must be dismissed, and EAB does not have jurisdiction to review the merits of claimant’s case.

**DECISION:** The application for review filed February 13, 2019 is dismissed. Order No. 18-UI-119026 remains undisturbed.

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

**DATE of Service: February 22, 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**

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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