

EMPLOYMENT APPEALS BOARD DECISION
2019-EAB-0246

Applications for Review Dismissed

FINDINGS OF FACT AND PROCEDURAL HISTORY: On March 3, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 131533). On March 23, 2017, decision # 131533 became final without claimant having filed a timely request for hearing. On September 20, 2017, claimant filed a late request for hearing on decision # 131533. On September 21, 2017, the Department served notice of an administrative decision assessing a \$6,049 overpayment, \$907.35 monetary penalty, and 47 penalty weeks (decision # 193697).¹ On October 4, 2017, OAH served notice of two hearings scheduled for October 18, 2017. On October 18, 2017, claimant failed to appear at the hearings, and ALJ S. Lee issued Order No. 17-UI-94874 and Order No. 17-UI-94875, dismissing claimant's requests for hearings on decision # 131533 and decision # 193697 due to claimant's failure to appear. On November 7, 2017, Order No. 17-UI-94874 and Order No. 17-UI-94875 became final without claimant having filed a request to reopen the hearings. On December 12, 2017, claimant filed a late request to reopen the hearings. On December 19, 2017, ALJ Kangas issued Order No. 17-UI-99309, and Order No. 17-UI-99311, denying claimant's request. On January 8, 2018, Order No. 17-UI-99309, and Order No. 17-UI-99311, became final without claimant having filed an application for review with the Employment Appeals Board (EAB). On March 5, 2019, claimant filed a late application for review of Order No. 17-UI-99309 and Order No. 17-UI 99311 with EAB.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders 17-UI-99309 and 17-UI-99311. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2019-EAB-0247 and 2019-EAB-0246).

CONCLUSIONS AND REASONS: The applications for review should be dismissed.

¹ For reasons not explained in the record, the Office of Administrative Hearings (OAH) construed claimant's September 20, 2017 request for hearing as applying to decision # 193697, which was not issued until the day after claimant filed his request for hearing, and OAH's jurisdiction to review any issues related to decision # 193697 is therefore unclear. Ordinarily such a discrepancy would necessitate remand to determine the jurisdictional issue; however, given that the case must be procedurally dismissed anyway and in the interest of administrative efficiency we decline to do so.

On March 5, 2019, the appellant filed applications for review of Order No. 17-UI-99309 and Order No. 17-UI-99311 with the Employment Appeals Board (EAB). ORS 657.270(6) and ORS 657.270(7)(c) required the applications for review to be filed no later than November 7, 2017. The deadline for filing a late application for review may be extended under certain circumstances. OAR 471-041-0070. In order to be considered for such an extension, however, an individual must include “a written statement describing the circumstances that prevented a timely filing.” OAR 471-041-0070(3). The appellant submitted written materials to EAB with his application for review, but those materials included no explanation as to why the application was filed after the filing deadline expired. Accordingly, the applications for review are dismissed.

Order No. 17-UI-99309 and Order No. 17-UI-99311 remain undisturbed. EAB will take no further action with regard to these matters.

DECISION: The applications for review filed March 5, 2019 are dismissed. Order No. 17-UI-99309 and Order No. 17-UI-99311 remain undisturbed.

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

DATE of Service: March 12, 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 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.

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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