

EMPLOYMENT APPEALS BOARD DECISION
2019-EAB-0249

Application for Review Dismissed

FINDINGS OF FACT AND PROCEDURAL HISTORY: On January 11, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without cause (decision # 74641). On January 12, 2018, the Department served notice of an administrative decision, based on decision # 74641, assessing a \$564 overpayment, \$84.60 monetary penalty, and 4 penalty weeks (decision # 203217). On January 31, 2018, decision # 74641 became final without claimant having filed a request for hearing. On February 1, 2018, decision # 203217 became final without claimant having filed a request for hearing. On February 21, 2018, claimant filed a late request for hearing on decision # 203217. On March 12, 2018, claimant requested a hearing on decision # 74641. On March 15, 2018, ALJ Kangas issued Order No. 18-UI-105260 dismissing claimant's late request for hearing on decision #74641, subject to claimant's right to renew the request by responding to the appellant questionnaire by March 29, 2018. On March 26, 2018, ALJ Kangas issued Order No. 18-UI-105987 dismissing claimant's late request for hearing on decision # 203217, subject to claimant's right to renew the request by responding to the appellant questionnaire by April 9, 2018. On March 29, 2018, claimant responded to both questionnaires. On April 4, 2018, the Office of Administrative Hearings (OAH) mailed a letter stating that Order No. 18-UI-105987 was canceled. On April 5, 2018, OAH mailed a letter stating that Order No. 18-UI-105260 was canceled. On April 10, 2018, OAH mailed a notice of a hearing scheduled for April 25, 2018, concerning decision # 203217. On April 11, 2018, OAH mailed an amended notice of a hearing scheduled for May 4, 2018, concerning decision # 203217, and a notice of a hearing scheduled for May 4, 2018, for decision # 74641. On May 4, 2018, ALJ Wyatt conducted the hearings, and on May 11, 2018, issued Order No. 18-UI-109173, dismissing claimant's late request for hearing on decision # 74641, and Order No. 18-UI-109237, allowing claimant's late request for hearing on decision # 203217, upholding assessment of a \$564 overpayment, and concluding that claimant was not liable for a monetary penalty or penalty weeks. On May 31, 2018, Order No. 18-UI-109173 and Order No. 18-UI-109237 became final without claimant having filed applications for review with the Employment Appeals Board (EAB). On March 8, 2019, claimant filed late applications for review with EAB.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders 18-UI-109173 and 18-UI-109237. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2019-EAB-0249 and 2019-EAB-0250).

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

On March 8, 2019, the appellant filed applications for review of Order No. 18-UI-109173 and Order No. 18-UI-109237 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 May 31, 2018. 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). Although claimant stated in her application for review that she was filing when she did because the Department collected claimant’s state tax refund, her written statement did not include any explanation as to why she did not file a timely application for review in May or June 2018, or what circumstances beyond her reasonable control prevented her from filing the late application until March 2019. Accordingly, the application for review is dismissed.

Order No. 18-UI-109173 and Order No. 18-UI-109237 remain undisturbed. EAB will take no further action with regard to this matter.

DECISION: The applications for review filed March 8, 2019 are dismissed. Order No. 18-UI-109173 and Order No. 18-UI-109237 remain undisturbed.

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

DATE of Service: March 14, 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.

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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