

EMPLOYMENT APPEALS BOARD DECISION
2019-EAB-0443

Affirmed
Ineligible

PROCEDURAL HISTORY: On March 4, 2019, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant did not furnish information required to process her claim and was not eligible to receive benefits for the week of February 17 through February 23, 2019. Claimant filed a timely request for hearing. On April 8, 2019, ALJ Shoemake conducted a hearing, and on April 22, 2019 issued Order No. 19-UI-128580, affirming the Department's decision and concluding that claimant also was not eligible to receive benefits for the weeks of February 17 through March 16, 2019. On May 7, 2019, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Sometime before January 20, 2019 (the start of week 04-19), claimant began claiming benefits. For week 04-19, claimant reported hours worked and earnings from employment when she claimed benefits. For week 05-19, claimant did not report any hours worked or earnings when she claimed benefits.

(2) On February 11 or 12, 2019 (in week 07-19), the Department mailed a letter to claimant at her address of record requesting information about the employer she had worked for in week 04-19 and an explanation of why she had not reported earnings in week 05-19. The letter advised claimant that she needed to provide this information to an Unemployment Insurance Center in five days or she would be denied further benefits. Because a weekend intervened, the actual deadline by which the Department required claimant to furnish this information or be denied benefits was, at the latest, the end of the day on February 19, 2019. The letter was never returned to the Department as undeliverable.

(3) Claimant did not provide the requested information. Claimant claimed benefits for the weeks of February 17, 2019 through March 16, 2019 (weeks 08-19 through 11-19), the weeks at issue.

CONCLUSIONS AND REASONS: Claimant failed provide information to the Department information required for the processing of her claim.

ORS 657.155(1) provides that an individual is eligible to receive benefits with respect to any week only if the individual has claimed benefits for that week in accordance with ORS 657.260. ORS 657.260 provides that claims for benefits shall be filed in accordance with such regulations as the Director may prescribe. OAR 471-030-0025(1) (January 11, 2018) provides that individuals shall furnish to the Director any information required for the processing of the individual's claim. For requests for information by letter mailed to the address of record, the claimant shall have five (5) calendar days to respond from the date the letter was mailed. OAR 471-030-0025(2)(a).

It was not disputed that claimant did not provide the information identified in the letter the Department mailed her on February 11 or 12, 2019. It also was not disputed that the information requested in that letter was required for the processing of claimant's claim. The issue is whether the Department sufficiently notified claimant that it was requesting additional information from her and that, if she did not provide it, she would be denied further benefits.

Claimant denied at hearing that she ever had ever seen the February 11 or 12 letter, although she was very careful to state that she was not denying that the letter was delivered to her residence. Audio at ~12:54. However, OAR 137-003-0520(10) (January 12, 2012) provides that documents sent through the U.S. Postal Service are presumed to have been received by the addressee subject to evidence to the contrary. Claimant's denial that she ever saw the letter, while at the same time allowing for the possibility that the letter might have been delivered to her address of record, is insufficient to overcome the presumption that she received the letter. Consequently, claimant was reasonably on notice that additional information was requested of her to process her claim, and that she would be denied further benefits if she did not provide it. By failing to timely provide that requested information, claimant was not eligible to receive benefits for the weeks at issue.

DECISION: Order No. 19-UI-128580 is affirmed.

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

DATE of Service: June 7, 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.

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