

**EMPLOYMENT APPEALS BOARD DECISION**  
**2019-EAB-0527**

*Affirmed*  
*Late Request for Hearing Dismissed*

**PROCEDURAL HISTORY:** On February 25, 2019, the Oregon Employment Department (the Department) served notice of an administrative decision concluding benefits were denied from February 3, 2019 through February 9, 2019 and until the reason for the denial ended, because claimant had not registered for work as directed. On March 18, 2019, that decision became final without claimant having filed a timely request for hearing. On April 8, 2019, claimant filed a late request for hearing. On April 12, 2019, ALJ Kangas issued Order No. 19-UI-128120, dismissing claimant's late request for hearing subject to his right to renew the request by responding to an appellant questionnaire by April 26, 2019. On April 23, 2019, claimant filed a timely response to the appellant questionnaire. On April 30, 2019, the Office of Administrative Hearings (OAH) mailed a letter stating that Order No. 19-UI-128120 was canceled. On May 14, 2019, ALJ Meerdink conducted a hearing, and on May 21, 2019 issued Order No. 19-UI-130240, re-dismissing claimant's late request for hearing. On June 5, 2019, claimant filed a timely application for review of Order No. 19-UI-130240 with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Claimant had an interstate claim for unemployment insurance benefits. He experienced some misinformation and confusion about which state he was expected to register for work, and struggled to understand some of the expectations associated with his claim.

(2) The Department mailed notice of the February 25<sup>th</sup> decision to claimant at his address of record. The decision was not returned to the Department by the U.S. Postal Service as undeliverable. The decision stated that benefits were denied and that claimant had until March 18, 2019 to file a timely request for hearing.

(3) On March 13, 2019 and March 14, 2019, claimant spoke with Department employees and indicated that he was going to file a request for hearing. The Department employees with whom claimant spoke gave claimant oral instructions about how to request a hearing.

(4) On March 29, 2019, claimant attempted to file a request for hearing by email, but sent the request to an incorrect email address. On April 8, 2019, claimant successfully filed a request for hearing by email.

**CONCLUSIONS AND REASONS:** Claimant's late request for hearing should be dismissed.

ORS 657.269 provides that the Department's decisions become final unless a party files a request for hearing within 20 days after the date the decision is mailed. ORS 657.875 provides that the 20-day deadline may be extended a "reasonable time" upon a showing of "good cause." OAR 471-040-0010 (February 10, 2012) provides that "good cause" includes factors beyond an applicant's reasonable control or an excusable mistake, and defines "reasonable time" as seven days after those factors ceased to exist.

Although claimant experienced difficulties with the technical aspects of his claim, claimant had conversations with Department employees on March 13<sup>th</sup> and March 14<sup>th</sup> in which he indicated he was going to request a hearing on the decision in this case and received oral instructions from Department employees about how to request a hearing. Whatever circumstances, if any, that might have prevented claimant from filing a timely request for hearing in this case before those conversations therefore ended by March 14<sup>th</sup>. Claimant did not file a late request for hearing in this case until 25 days later on April 8, 2019. Because claimant did not file his late request for hearing within the 7-day "reasonable time" period required under ORS 657.875 and OAR 471-040-0010, the filing period may not be extended in this case.<sup>1</sup> Claimant's late request for hearing must therefore be dismissed. The Department's decision in this case remains undisturbed.

**DECISION:** Order No. 19-UI-130240 is affirmed.

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

**DATE of Service: June 11, 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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<sup>1</sup> Even if claimant had successfully filed his request for hearing when he initially attempted to file it on March 29<sup>th</sup>, his late request for hearing would still have to be dismissed because March 29<sup>th</sup> was fifteen days after the date the circumstances that prevented a timely filing had ceased to exist, and therefore still was not within the 7-day "reasonable time" period required by ORS 657.875 and OAR 471-040-0010.



# 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 desisyong ito.

## 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**

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**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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