

EMPLOYMENT APPEALS BOARD DECISION
2019-EAB-0572

Affirmed
Late Request for Hearing Dismissed

PROCEDURAL HISTORY: On April 5, 2019, the Oregon Employment Department (the Department) served, by mail, notice of an administrative decision concluding that claimant quit work without good cause (decision # 140642). On April 25, 2019, decision # 140642 became final without claimant having filed a request for hearing. On May 2, 2019, claimant filed a late request for hearing. On May 10, 2019, ALJ Kangas issued Order No. 19-UI-129694, dismissing claimant's request for hearing as late without a showing of good cause, subject to claimant's right to renew her request by filing a response to an appellant questionnaire within 14 days. On May 30, 2019, claimant filed a late response to the appellant questionnaire, and a timely application for review of Order No. 19-UI-129694 with the Employment Appeals Board (EAB). On June 10, 2019, ALJ Kangas issued a letter stating that because claimant's response to the appellant questionnaire was filed late, it would not be considered, another order would not be issued, and Order No. 19-UI-129694 remained in effect.

EAB considered claimant's response to the appellant questionnaire under OAR 471-041-0090(1) (May 13, 2019). Claimant's response to the appellant questionnaire has been marked as EAB Exhibit 1, and a copy provided to the parties with this decision. Any party that objects the admission of EAB Exhibit 1 must submit such objection to this office in writing, setting forth the basis of the objection in writing, within ten days of our mailing this decision. OAR 471-041-0090(2). Unless such objection is received and sustained, the exhibit(s) will remain in the record.

FINDINGS OF FACT: (1) Claimant received decision # 140642 shortly after April 5, 2019. *See* EAB Exhibit 1 at 1.

(2) Decision stated # 140642 that to be timely, any appeal from the decision had to be filed on or before April 25, 2019. Exhibit 1. Claimant did not file a request for hearing until May 2, 2019.

CONCLUSIONS AND REASONS: Claimant's late request for hearing on decision # 140642 is 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.

Here, claimant filed her request for hearing on decision # 140642 seven after the filing deadline. In her response to the appellant questionnaire, claimant asserted that she filed a late request for hearing because she "was sick and had trouble getting out." EAB Exhibit 1 at 2. However, she did not provide any information as to when she became ill or how long she was ill for, or explain how being ill interfered with her ability to file a timely request for hearing. Without this information, EAB is unable to determine if claimant's illness occurred before or after she received the decision, whether or not it lasted through the filing deadline, or how it prevented her from requesting a hearing by the filing deadline.

Furthermore, when asked what prompted her to file a request for hearing on May 2, 2019, claimant responded that it was because she "kept getting denied for unemployment." EAB Exhibit 1 at 2. Claimant's response suggests that she continued to file for unemployment benefits during her illness. From this, EAB infers that claimant was able to conduct some part of her business during her illness, and, therefore, that it was also within her reasonable control to file a timely request for hearing. Based on this evidence, claimant failed to show good cause to extend the deadline for filing a request for hearing on decision # 140642 to May 2, 2019.

Claimant's late request for hearing on decision # 140642 therefore is dismissed.

DECISION: Order No. 19-UI-129694 is affirmed.

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

DATE of Service: June 28, 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

ទោរទៅ – ចាំពិនិត្យនេះមិនមែនជាបញ្ហាប្រឈមរបស់លោកអ្នកទេ បើសិនជាលោកអ្នកមិនយល់អំពីសេចក្តីសម្រេចនេះទេ ឬបើលោកអ្នកមិនយល់ស្របចំពោះសេចក្តីសម្រេចនេះទេ លោកអ្នកអាចដាក់ពាក្យប្តឹងសុំឲ្យមានការពិនិត្យរឿងក្តីឡើងវិញជាមួយតុលាការឧទ្ធរណ៍រដ្ឋ Oregon ដោយអនុវត្តតាមសេចក្តីណែនាំដែលសរសេរនៅខាងចុងបញ្ចប់នៃសេចក្តីសម្រេចនេះ។

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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