

EMPLOYMENT APPEALS BOARD DECISION
2019-EAB-0879

Application for Review Dismissed

PROCEDURAL HISTORY: On November 27, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was not available for work and denying benefits for the period of October 21 through 27, 2018 (decision # 64901). Claimant filed a timely request for hearing. On January 2, 2019, the Office of Administrative Hearings (OAH) served, by mail to claimant's address of record, notice of a hearing scheduled for January 15, 2019. On January 15, 2019, claimant failed to appear at the hearing, and on January 16, 2019 ALJ Mann issued Order No. 19-UI-122822, dismissing claimant's request for hearing for failure to appear. On February 5, 2019, Order No. 19-UI-122822 became final without claimant having filed a request to reopen the hearing. On February 26, 2019, claimant filed a late request to reopen the hearing. On March 6, 2019, OAH served, by mail to claimant's address of record, notice of a hearing scheduled for March 19, 2019. On March 19, 2019, claimant failed to appear at the hearing, and ALJ Frank issued Order No. 19-UI-126622, dismissing claimant's request to reopen the January 15, 2019 hearing for failure to appear. On March 26, 2019, claimant filed a request to reopen the March 19, 2019 hearing. On April 22, 2019, OAH served, by mail to claimant's address of record, notice of a hearing scheduled for May 7, 2019 at 1:30 p.m. On May 7, 2019, claimant failed to appear at the hearing, and ALJ Frank issued Order No. 19-UI-129495, dismissing claimant's request to reopen the March 19, 2019 hearing for failure to appear. On May 28, 2019, Order No. 19-UI-129495 became final without claimant having filed a request to reopen the May 7, 2019 hearing. On July 22, 2019, claimant filed a late request to reopen the May 7, 2019, hearing. ALJ Kangas considered claimant's request, and on July 30, 2019 issued Order No. 19-UI-134175, dismissing the request. On August 19, 2019, Order No. 19-UI-134175 became final without claimant having filed an application for review with the Employment Appeals Board (EAB).

On February 7, 2019, the Department served notice of an administrative decision, concluding claimant quit working for the employer without good cause (decision # 135801). On February 27, 2019, decision # 135801 became final without claimant having filed a request for hearing. On April 5, 2019, claimant filed a late request for hearing. On April 22, 2019, OAH served, by mail to the parties' addresses of record, notice of a hearing scheduled for May 7, 2019 at 2:30 p.m. On May 7, 2019, claimant failed to appear at the hearing, and ALJ Frank issued Order No. 19-UI-129507, dismissing claimant's request for hearing for failure to appear. On May 28, 2019, Order No. 19-UI-129507 became final without claimant having filed a request to reopen the hearing. On July 22, 2019, claimant filed a late request to reopen the

hearing. ALJ Kangas considered claimant's request, and on July 30, 2019 issued Order No. 19-UI-134179, dismissing the request. On August 19, 2019, Order No. 19-UI-134179 became final without claimant having filed an application for review with EAB.

On February 8, 2019, the Department served notice of an administrative decision, concluding claimant was not available for work and denying benefits for the period of January 20 through 26, 2019 (decision # 83818). Claimant filed a timely request for hearing. On April 22, 2019, OAH served, by mail to claimant's address of record, notice of a hearing scheduled for May 7, 2019, at 1:30 p.m. On May 7, 2019, claimant failed to appear at the hearing, and ALJ Frank issued Order No. 19-UI-129500, dismissing claimant's request for hearing for failure to appear. On May 28, 2019, Order No. 19-UI-129500 became final without claimant having filed a request to reopen the hearing. On July 22, 2019, claimant filed a late request to reopen the hearing. ALJ Kangas considered claimant's request, and on July 30, 2019 issued Order No. 19-UI-134181, dismissing the request. On August 19, 2019, Order No. 19-UI-134181 became final without claimant having filed an application for review with EAB.

On February 11, 2019, the Department served notice of an administrative decision, based in part on decision # 135801, assessing a \$584.00 overpayment, \$87.60 monetary penalty, and 8 penalty weeks (decision # 194226). Claimant filed a timely request for hearing. On March 6, 2019, OAH served, by mail to claimant's address of record, notice of a hearing scheduled for March 19, 2019. On March 19, 2019, claimant failed to appear at the hearing, and ALJ Frank issued Order No. 19-UI-126640, dismissing claimant's request for hearing for failure to appear. Claimant filed a timely request to reopen the hearing. On April 22, 2019, OAH served, by mail to claimant's address of record, notice of a hearing scheduled for May 7, 2019 at 3:30 p.m. On May 7, 2019, claimant failed to appear at the hearing, and on May 8, 2019 ALJ Frank issued Order No. 19-UI-129527, dismissing claimant's request to reopen for failure to appear. On May 28, 2019, Order No. 19-UI-129527 became final without claimant having filed a request to reopen the May 7, 2019 hearing. On July 22, 2019 claimant filed a late request to reopen the May 7, 2019 hearing. ALJ Kangas considered claimant's request, and on July 30, 2019, issued Order No. 19-UI-134178 dismissing the request. On August 19, 2019, Order No. 19-UI-134178 became final without claimant having filed an application for review with EAB.

On February 26, 2019, the Department served notice of an administrative decision denying claimant benefits for the week of February 10 through 17, 2019 because he filed the claim late (decision # 170832). Claimant filed a timely request for hearing. On March 6, 2019, OAH served, by mail to claimant's address of record, notice of a hearing scheduled for March 19, 2019. On March 19, 2019, claimant failed to appear at the hearing, and ALJ Frank issued Order No. 19-UI-126623, dismissing claimant's request for hearing for failure to appear. Claimant filed a timely request to reopen the hearing. On April 22, 2019, OAH served, by mail to claimant's address of record, notice of a hearing scheduled for May 7, 2019 at 1:30 p.m. On May 7, 2019, claimant failed to appear at the hearing, and ALJ Frank issued Order No. 19-UI-129499, dismissing claimant's request to reopen the hearing for failure to appear. On May 28, 2019, Order No. 19-UI-129499 became final without claimant having filed a request to reopen the May 7, 2019 hearing. On July 22, 2019 claimant filed a late request to reopen the May 7, 2019 hearing. ALJ Kangas considered claimant's request, and on July 30, 2019 issued Order No. 19-UI-134176 dismissing the request. On August 19, 2019, Order No. 19-UI-134176 became final without claimant having filed an application for review with EAB.

On September 10, 2019, claimant filed a late application for review of Orders No. 19-UI-134175, 19-UI-134179, 19-UI-134181, 19-UI-134178, and 19-UI-134176 with EAB. Pursuant to OAR 471-041-0095 (May 13, 2019), EAB consolidated its review of Orders No. 19-UI-134175, 19-UI-134179, 19-UI-134181, 19-UI-134178, and 19-UI-134176. For case-tracking purposes, this decision is being issued in quintuple (EAB Decisions 2019-EAB-0878, 2019-EAB-0879, 2019-EAB-07881, 2019-EAB-07882 and 2019-EAB-0883).

CONCLUSIONS AND REASONS: Claimant’s application for review of Orders No. 19-UI-134175, 19-UI-134179, 19-UI-134181, 19-UI-134178, and 19-UI-134176 is dismissed as untimely without a showing of good cause to extend the filing deadline.

An application for review is timely if it is filed within 20 days of the date that OAH mailed the decision for which review is sought. ORS 657.270(6); OAR 471-041-0070(1) (May 13, 2019). The 20 day filing period may be extended a “reasonable time” upon a showing of “good cause.” ORS 657.875; OAR 471-041-0070(2). “Good cause” means that factors or circumstances beyond the applicant’s reasonable control prevented timely filing. OAR 471-041-0070(2)(a). A “reasonable time” is seven days after the circumstances that prevented the timely filing ceased to exist. OAR 471-041-0070(2)(b). A late application for review will be dismissed unless it includes a written statement describing the circumstances that prevented a timely filing. OAR 471-041-0070(3).

In this case, the application for review of Orders No. 19-UI-134175, 19-UI-134179, 19-UI-134181, 19-UI-134178, and 19-UI-134176 was due by August 19, 2019. The appellant did not file his application for review until September 10, 2019. Although the appellant included a written statement with their application for review, that statement provided no explanation as to why the application was filed after the filing deadline expired, as required under OAR 471-041-0070(3). In order for EAB to extend the filing period, the appellant must show that factors or circumstances beyond their reasonable control prevented a timely filing and that they filed within seven days after those circumstances ceased to exist. Accordingly, the application for review is dismissed.

DECISION: The application for review filed September 10, 2019 is dismissed. Orders No. 19-UI-134175, 19-UI-134179, 19-UI-134181, 19-UI-134178, and 19-UI-134176 remain undisturbed.

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

DATE of Service: October 2, 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 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 Empleo. Si no está de acuerdo con esta decisión, puede presentar una Aplicación 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

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.

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