

EMPLOYMENT APPEALS BOARD DECISION
2019-EAB-0933

Affirmed
Late Request to Reopen Dismissed

PROCEDURAL HISTORY: On December 20, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant was not available for work and denying benefits for the period of November 19, 2017 through December 2, 2017, (decision # 145814). On December 21, 2017, the Department served notice of a second administrative decision, based in part on decision # 145814, assessing a \$1,180.00 overpayment, \$177.00 monetary penalty, and 8 penalty weeks (decision # 194050). On January 9, 2018, decision # 145814 became final without claimant having filed a timely request for hearing. On January 10, 2018, decision # 194050 became final without claimant having filed a timely request for hearing.

On February 1, 2018, claimant filed a late request for hearing on both decisions. On February 8, 2018, ALJ Kangas issued Orders No. 18-UI-102821 and 18-UI-012823, dismissing claimant's late request for hearing on decisions # 145814 and 194050 subject to his right to renew the request by responding to an appellant questionnaire by February 22, 2018. On February 15, 2018, claimant responded to the appellant questionnaire. On February 21, 2018, the Office of Administrative Hearings (OAH) mailed two letters stating that Orders No. 18-UI-102821 and 18-UI-012823 were canceled. On February 27, 2018, OAH mailed notices scheduling two hearings for March 28, 2018, one at 9:30 a.m., and the other at 10:45 a.m., at which times claimant failed to appear. On March 29, 2018, ALJ Wyatt issued Order No. 18-UI-106191, dismissing claimant's request for hearing on decision # 145814, and Order No. 18-UI-106192 dismissing claimant's request for hearing on decision # 194050, for failure to appear. On April 18, 2018, Orders No. 18-UI-106191 and No. 18-UI-106192 became final without claimant having filed a timely request to re-open the March 28, 2018 hearings. On August 30, 2019, claimant filed a late request to reopen the hearings. ALJ Kangas considered claimant's request, and on September 9, 2019 issued Orders No. 19-UI-136284 and 19-UI-136290 dismissing the request.

On September 30, 2019, claimant filed a timely application for review of Orders No. 19-UI-136284 and No. 19-UI-136290 with the Employment Appeals Board (EAB). Pursuant to OAR 471-041-0095 (May 13, 2019); EAB consolidated its review of Orders No. Orders No. 19-UI-136284 and No. 19-UI-136290.

For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2019-EAB-0932 and 2019-EAB-0933).

Claimant submitted written argument. However, claimant's argument contained information that was not part of the hearing record, and did not show that factors or circumstances beyond claimant's reasonable control prevented them from offering the information into the hearing record in their request to reopen the March 23, 2018 hearings. Under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB considered only information received into the hearing record when reaching this decision.

EAB reviewed the entire hearing record in both cases. On de novo review and pursuant to ORS 657.275(2), the Orders under review are **adopted**.

DECISION: Order No. 19-UI-136290 and No. 19-UI-136284 are affirmed.

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

DATE of Service: October 10, 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 ໄດ້ ໂດຍປະຕິບັດຕາມຄຳແນະນຳທີ່ບອກໄວ້ຢູ່ຕອນຫ້າຍຂອງຄຳຕັດສິນນີ້.

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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