

EMPLOYMENT APPEALS BOARD DECISION
2019-EAB-1093

Application for Review Dismissed

FINDINGS OF FACT AND PROCEDURAL HISTORY: On March 18, 2019, the Oregon Employment Department (the Department) served notice of an administrative decision assessing a \$6,841 overpayment, \$2,052.30 monetary penalty, and 52 penalty weeks (decision # 194361). Claimant filed a timely request for hearing. On March 27, 2019, the Office of Administrative Hearings (OAH) mailed notice of a hearing scheduled for April 10, 2019 at 10:45 a.m., at which time claimant failed to appear for the hearing. On April 10, 2019, ALJ Frank issued Order No. 19-UI-127920, dismissing claimant's request for hearing for failure to appear.

On April 17, 2019, claimant filed a request to reopen the April 10th hearing. On April 25, 2019, OAH mailed notice of the reopen hearing scheduled for May 10, 2019 at 10:45 a.m., at which time claimant failed to appear for the hearing. On May 10, 2019, ALJ Meerdink issued Order No. 19-UI-129718, dismissing claimant's request to reopen for failure to appear.

On May 29, 2019, claimant filed a request to reopen the May 10th hearing. On June 4, 2019, ALJ Kangas reviewed claimant's request and issued Order No. 19-UI-131031, denying the request. On June 14, 2019, claimant filed an application for review with the Employment Appeals Board (EAB).

On June 21, 2019, EAB issued Employment Appeals Board Decision 2019-EAB-0546, reversing Order No. 19-UI-131031 and remanding the case for a hearing on claimant's request to reopen the May 10th hearing and, if warranted, possibly on the April 10th request to reopen and the merits of decision # 194361. On June 25, 2019, OAH mailed notice of a hearing scheduled for July 10, 2019. On July 10,

2019, ALJ Frank conducted a hearing, and on July 18, 2019 issued Order No. 19-UI-133608, allowing claimant's request to reopen the May 10th hearing, but denying the request to reopen the April 10th hearing. On August 6, 2019, claimant filed a timely application for review of Order No. 19-UI-133608 with EAB.

On August 22, 2019, EAB issued Appeals Board Decision 2019-EAB-0727, modifying Order No. 19-UI-133608, allowing claimant's request to reopen the May 10th and the April 10th hearings and requiring a hearing on merits of decision # 194361. On September 25, 2019, OAH mailed notice of a hearing scheduled for October 16, 2019. On October 16, 2019, ALJ Frank conducted a hearing, and on October 24, 2019 issued Order No. 19-UI-138652, affirming the Department's decision assessing a \$6841 overpayment, \$2052.30 monetary penalty, and 52 penalty weeks. On November 13, 2019, Order No. 19-UI-138652 became final without claimant having filed an application for review with the Employment Appeals Board (EAB). On November 15, 2019, claimant filed a late application for review with EAB.

CONCLUSIONS AND REASONS: The application for review should be dismissed.

On November 15, 2019, the appellant filed an application for review of Order No. 19-UI-138652 with the EAB. ORS 657.270(6) and ORS 657.270(7)(b) required the application for review to be filed no later than November 13, 2019. The deadline for filing a late application for review may be extended under certain circumstances. OAR 471-041-0070. In order to be considered for such an extension, however, an individual must include "a written statement describing the circumstances that prevented a timely filing." OAR 471-041-0070(3). The appellant provided no explanation as to why the application was filed after the filing deadline expired. Accordingly, the application for review is dismissed.

DECISION: The application for review filed November 15, 2019 is dismissed. Order No. 19-UI-138652 remains undisturbed.

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

DATE of Service: November 26, 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 Tý Pháp với Tòa Kháng Cáo Oregon theo các hướng dẫn đã 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 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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