

State of Oregon
Employment Appeals Board
875 Union St. N.E.
Salem, OR 97311



Advisory

ENGLISH

Attention – This decision affects your unemployment benefits. If you do not understand this decision and need translation assistance, contact the Employment Appeals Board immediately.

KOREAN

참조- 본 결정은 귀하의 고용 혜택에 영향을 줍니다. 본 결정을 이해하지 못하시고 번역 도움이 필요하시면 바로 고용 항소 위원회로 연락주시기 바랍니다.

Affirmed

*Late Request for Hearing Allowed
Amendment of Claim Determination Denied*

PROCEDURAL HISTORY: On August 28, 2019, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the wages and hours were correct as reported by the employer, and denying claimant’s request to amend her claim determination. On September 7, 2019, the Department’s decision became final. On September 10, 2019, claimant filed a late request for hearing on the Department’s decision. On September 16, 2019, ALJ Kangas issued Order No. 19-UI-136553, dismissing claimant’s request for hearing as late, subject to claimant’s right to renew the request by responding to an appellant questionnaire by September 30, 2019. On September 24, 2019, claimant responded to the questionnaire. On November 6, 2019, ALJ Wyatt conducted a hearing, and on November 8, 2019, issued Order No. 19-UI-139509, allowing claimant’s late request for hearing and affirming the Department’s August 28, 2019 decision. On November 20, 2019, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Prior to August 28, 2019, claimant requested a claim redetermination to add wages and hours to her base year of April 1, 2018 through March 30, 2019.

(2) Claimant provided the Department all the information she had regarding her wages and hours during her base year. None of the information claimant provided the Department showed she had additional wages and hours that were not included in the Department’s initial claim determination. The wage stubs

claimant provided the Department matched, and did not add to, the information the employer had already provided the Department, and that the Department used to make its claim determination.

(3) Claimant misplaced her mailbox key for ten days, but found it on the floor of her car on September 8, 2019. The evening of September 8, 2019, claimant opened her locked mailbox and read the August 28, 2019 decision from the Department.

(4) Claimant has a heart condition and had been sick, including on Monday, September 9, 2019.

CONCLUSIONS AND REASONS: Claimant had good cause for the late request for hearing. Claimant's request to amend her claim determination is denied.

ORS 657.266(5) provides that parties have 10 days from the date of an initial or amended claim determination to file a timely request for hearing. Under ORS 657.875, that time period may be extended a reasonable time upon a showing of good cause. OAR 471-040-0010 (February 10, 2012) defines "reasonable time" as "seven days after the circumstances that prevented a timely filing ceased to exist," and "good cause" as "an excusable mistake or . . . factors beyond an applicant's reasonable control." Claimant had temporarily lost her mailbox key and had been ill. To the extent claimant's illness and the temporary loss of her mailbox key caused her to file her request for hearing late in this case, those factors were beyond claimant's reasonable control. Once claimant found her key, she requested a hearing within two days, which was a reasonable time after she found her mailbox key. Claimant's late request for hearing is therefore allowed.

Under ORS 657.266, the Department must promptly make an initial determination of eligibility for unemployment benefits and determine the total amount of wages paid to a claimant during the base year. A determination can be amended if the claimant provides evidence that their earnings or hours were different from the Department's initial determination. OAR 471-030-0048 (January 11, 2018). At issue here is whether the Department accurately calculated claimant's wages for her base year of April 1, 2018 through March 30, 2019. The evidence presented at hearing shows that the Department accurately calculated claimant's base year wages. Claimant's request to amend the Department's initial claim determination is therefore denied.

DECISION: Order No. 19-UI-139509 is affirmed.

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

DATE of Service: December 27, 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.

Korean

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Simplified Chinese

注意 – 本判决会影响您的失业救济金。如果您不明白本判决，请立即联系就业上诉委员会。如果您不同意此判决，您可以按照该判决结尾所写的说明，向俄勒冈州上诉法院提出司法复审申请。

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 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، می توانید با استفاده از دستور العمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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