

EMPLOYMENT APPEALS BOARD DECISION
2020-EAB-0067-R

*EAB Decision 2020-EAB-0067 Adhered to on Reconsideration upon EAB's Own Motion
Order No. 20-UI-142716 Affirmed
Disqualification*

PROCEDURAL HISTORY: On November 18, 2019, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause and was disqualified from benefits effective August 25, 2019, (decision # 71110). Claimant filed a timely request for hearing. On January 13, 2020, ALJ Snyder conducted a hearing, and on January 15, 2020 issued Order No. 20-UI-142716, modifying decision # 71110 by concluding that claimant was discharged, not for misconduct, within fifteen days of her planned voluntary leaving without good cause, and therefore was disqualified from receiving benefits effective September 1, 2019. On January 20, 2020, claimant filed an application for review and written argument with the Employment Appeals Board (EAB). On February 13, 2020, EAB received a second written argument from claimant. On February 14, 2020, EAB issued EAB Decision 2020-EAB-0067, affirming and adopting Order No. 20-UI-142716, before becoming aware that claimant's second written argument had been received.

RECONSIDERATION: EAB did not consider the written argument claimant submitted with their application for review when reaching EAB Decision 2020-EAB-0067 because they did not include a statement declaring that they provided a copy of their argument to the opposing party or parties as required by OAR 471-041-0080(2)(a) (May 13, 2019). However, claimant did include such a statement in their second written argument, which was received by EAB within the time period allowed under OAR 471-041-0080(1) (May 13, 2019). EAB therefore erred in issuing EAB Decision 2020-EAB-0067 without considering claimant's second written argument. This decision is being issued to address claimant's second written argument pursuant to EAB's authority under ORS 657.290(3), which authorizes EAB, upon its own motion, to reconsider any previous decision of EAB, including "the making of a new decision to the extent necessary and appropriate for the correction of previous error of fact or law."

In her second written argument, claimant asserted that she should not be disqualified from receiving benefits based on her work separation from the employer because although she notified the employer

that she was going to quit work on September 4, 2019, the employer discharged her, not for misconduct, on August 30, 2019. However, Order No. 20-UI-142716 disqualified claimant from receiving benefits under ORS 657.176(8).¹ ORS 657.176(8) provides that when an individual has, without good cause, notified an employer that the individual will leave work on a specific date, and the employer discharged the individual, not for misconduct, within 15 days prior to the date of the planned voluntary leaving, then the separation from work shall be adjudicated as if the discharge had not occurred and the planned voluntary leaving had occurred, except that the individual shall be eligible for benefits for the period including the week in which the actual discharge occurred through the week prior to the week of the planned voluntary leaving date. Order No. 20-UI-142716 did not err in concluding that claimant was discharged, not for misconduct, within fifteen days of her planned voluntary leaving without good cause. The order therefore did not err in adjudicating claimant's separation from work as if the discharge had not occurred, and the planned voluntary leaving had occurred, or in disqualifying claimant from receiving benefits effective September 1, 2019. EAB therefore did not err in affirming and adopting Order No. 20-UI-142716.

EAB Decision 2020-EAB-0067 is adhered to on reconsideration as modified herein, and Order No. 20-UI-142716 is reaffirmed and re-adopted. Claimant is disqualified from receiving benefits based on her work separation from the employer, effective September 1, 2019.

DECISION: On reconsideration, we adhere to EAB Decision 2020-EAB-0067 as clarified herein. Order No. 20-UI-142716 is affirmed.

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

DATE of Service: March 6, 2020

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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¹ Order No. 20-UI-142716 at 4-5.



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 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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