

**EMPLOYMENT APPEALS BOARD DECISION**  
**2020-EAB-0129**

*Reversed and Remanded*

**PROCEDURAL HISTORY:** On September 18, 2019, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit work without good cause and was therefore denied benefits beginning June 23, 2019 (decision # 81426). On October 8, 2019, decision # 81426 became final without claimant having filed a request for hearing. On December 31, 2019, claimant filed a late request for hearing. On January 13, 2020, ALJ Kangas issued Order No. 20-UI-142507, dismissing claimant's request for hearing as late without a showing of good cause, subject to claimant's right to renew the request by responding to an appellant questionnaire by January 27, 2020. On February 3, 2020, claimant filed a late response to the appellant questionnaire and a timely application for review of Order No. 20-UI-142507 with the Employment Appeals Board (EAB). On February 11, 2020, ALJ Kangas mailed a letter to claimant notifying him that his questionnaire response was late and would not be considered, and that Order No. 20-UI-142507 remained in effect. This matter therefore comes before EAB based upon claimant's timely application for review of Order No. 20-UI-142507.

**EVIDENTIARY MATTER:** EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence claimant's response to the appellant questionnaire, and has been marked as EAB Exhibit 1, and a copy provided to the parties with this decision. Any party that objects to our admitting EAB Exhibit 1 must submit such objection to this office in writing, setting forth the basis of the objection in writing, within ten days of our mailing this decision. OAR 471-041-0090(2). Unless such objection is received and sustained, the exhibit(s) will remain in the record.

**FINDINGS OF FACT:** (1) On September 18, 2019, the Department mailed decision # 81426 to claimant's mailing address in Eugene, Oregon. Around that time, claimant became unemployed, homeless, suffered from mental and emotional health conditions, and "was not receiving his mail." EAB Exhibit 1.

(2) Claimant filed a late request for hearing on decision # 81426 on December 31, 2019 after learning that his claim had been denied. Because claimant had not been receiving his mail, he failed to comply with the October 8, 2019 filing deadline.

**CONCLUSIONS AND REASONS:** Order No. 20-UI-142507 is reversed, and this matter remanded for a hearing on whether claimant's late request for hearing on decision # 81426 should be allowed and, if so, on the merits of that decision.

ORS 657.269 provides that the Department's decisions become final unless a party files a request for hearing within 20 days after the date the decision is mailed. ORS 657.875 provides that the 20-day deadline may be extended a "reasonable time" upon a showing of "good cause." OAR 471-040-0010 (February 10, 2012) provides that "good cause" includes factors beyond an applicant's reasonable control or an excusable mistake, and defines "reasonable time" as seven days after those factors ceased to exist.

Claimant "suffered adverse effects to [his] emotional and mental health and found it difficult to function" after he was forced to give up his job and became homeless. EAB Exhibit 1. For the reasons he described in EAB Exhibit 1, the state of claimant's mental and emotional health around the time decision # 81426 was issued might be considered factors beyond his reasonable control that prevented him from attending to matters related to his unemployment insurance claim, or otherwise caused him to make an excusable mistake. However, the contents of EAB Exhibit 1 are not sufficient to support a determination on that issue. For example, the record does not show the date of claimant's work separation, when he became homeless, and how those factors affected his mental and emotional stability and his ability to attend to his unemployment insurance claim. It also fails to show how claimant received his mail, how often he received his mail, and how his homelessness prevented him from receiving his mail sooner and filing a timely request for hearing. Finally, the record fails to show when and how claimant learned that his claim had been denied and how long it took him after that discovery to file his late request for hearing. Absent that information, and any related follow-up questions the ALJ deems appropriate, the record does not show whether claimant showed good cause to extend the deadline to file his request for hearing, and if he filed his request within a reasonable time thereafter.

Because further development of the record is necessary for a determination on whether claimant's late request for hearing on decision # 81426 should be allowed and, if so, for a determination on the merits of that decision, Order No. 20-UI-142507 is reversed, and this matter is remanded for those reasons.

**DECISION:** Order No. 20-UI-142507 is set aside, and this matter remanded for further proceedings consistent with this order.

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

**DATE of Service: February 21, 2020**

**NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Order No. 20-UI-142507 or return this matter to EAB. Only a timely application for review of the subsequent order will cause this matter to return to EAB.

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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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