

EMPLOYMENT APPEALS BOARD DECISION
2020-EAB-0158

Affirmed
Late Request for Hearing Dismissed
Overpayment Assessed

PROCEDURAL HISTORY: On August 29, 2019, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant did not actively seek work from August 4, 2019 through August 17, 2019 (decision # 80447). On September 18, 2019, decision # 80447 became final without claimant having filed a timely request for hearing. On December 30, 2019, the Department served notice of an administrative decision assessing a \$1,212 overpayment that claimant was required to repay (decision # 163041). On January 3, 2020, claimant filed a late request for hearing on decision # 80447 and a timely request for hearing on decision # 163041. On January 16, 2020, ALJ Murdock conducted a consolidated hearing, and on January 31, 2020, issued Order No. 20-UI-143668, dismissing claimant's late request for hearing, and Order No. 20-UI-143667, affirming decision # 163041. On February 18, 2020, claimant filed applications for review of both orders with the Employment Appeals Board (EAB).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 20-UI-143668 and No. 20-UI-143667. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2020-EAB-0159 and 2020-EAB-0158).

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), Order No. 20-UI-143668, dismissing claimant's late request for hearing on decision # 80447, is **adopted**. The remainder of this decision will focus solely on the overpayment issue.

FINDINGS OF FACT: (1) On July 21, 2019, claimant filed an initial claim for benefits. Claimant's weekly benefit amount was \$648. Claimant filed weekly claims for benefits for the weeks of August 4, 2019 through August 17, 2019 (weeks 32-19 through 33-19), the weeks at issue.

(2) Each week when claimant claimed benefits, claimant affirmatively reported to the Department that claimant had actively sought work. Had claimant not done so, the Department would not have paid benefits to claimant during any week in which claimant did not affirmatively report that claimant had

actively sought work. Based in part on claimant's weekly reports that claimant had actively sought work, the Department paid claimant \$564 for week 32-19 and \$648 for week 33-19.

CONCLUSIONS AND REASONS: Claimant was overpaid \$1,212 in unemployment insurance benefits that claimant is liable to repay.

ORS 657.310(1) provides that an individual who received benefits to which the individual was not entitled is liable to either repay the benefits or have the amount of the benefits deducted from any future benefits otherwise payable to the individual under ORS chapter 657. That provision applies if the benefits were received because the individual made or caused to be made a false statement or misrepresentation of a material fact, or failed to disclose a material fact, regardless of the individual's knowledge or intent. *Id.*

The Department paid claimant \$1,212 in unemployment insurance benefits during the weeks at issue. The Department determined in decision # 80447, however, that claimant had not actively sought work and was not entitled to benefits for those weeks. Decision # 80447 is final as a matter of law. Therefore, as a matter of law, claimant did not actively seek work, and, as a matter of law, claimant was overpaid \$1,212 in unemployment insurance benefits claimant was not entitled to receive.

Claimant received those benefits because of the weekly reports claimant made to the Department that claimant actively sought work as required. Because the Department has determined that claimant did not actively seek work, and that decision is final, claimant's report that claimant actively sought work is false as a matter of law. There is no indication that claimant's false report was the result of anything other than a mistake in claiming. Regardless of claimant's knowledge or intent in making a false report to the Department, however, claimant is liable to repay the overpayment that resulted from the false statements to the Department.

DECISION: Orders No. 20-UI-143668 and No. 20-UI-143667 are affirmed.

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

DATE of Service: March 16, 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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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 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.

Employment Appeals Board - 875 Union Street NE | Salem, OR 97311
 Phone: (503) 378-2077 | 1-800-734-6949 | Fax: (503) 378-2129 | TDD: 711
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