

EMPLOYMENT APPEALS BOARD DECISION
2020-EAB-0363

Affirmed ~ Late Requests for Hearing Dismissed
Affirmed ~ Liable to Repay Overpayments

PROCEDURAL HISTORY: On February 3, 2020, the Oregon Employment Department served five notices of five administrative decisions: one concluding that claimant was not available for work from October 20, 2019 through October 26, 2019 because she missed an opportunity to work (decision # 135657); one concluding claimant was not available for work from October 27, 2019 through November 2, 2019 because she missed an opportunity to work (decision # 134051); one concluding claimant was not available for work from November 17, 2019 through November 23, 2019 because she missed an opportunity to work (decision # 144245); one concluding claimant was not available for work from November 24, 2019 through November 30, 2019 because she missed an opportunity to work (decision # 145444); and one concluding claimant voluntarily left work without good cause and was disqualified from receiving unemployment insurance benefits effective December 15, 2019 (decision # 150431). On February 24, 2020, decisions # 135657, 134051, 144245, 145444, and 150431 became final without claimant having filed timely requests for hearing.

On March 10, 2020, the Department served notice of a sixth administrative decision, based upon decision # 135657, assessing a \$151 overpayment claimant was liable to repay (decision # 131707). On March 10, 2020, the Department also served notice of a seventh administrative decision, based upon decision # 150431, assessing a \$453 overpayment claimant was liable to repay (decision # 132403). On March 11, 2020, the Department served notice of an eighth administrative decision, based upon decision # 134051, assessing a \$151 overpayment claimant was liable to repay (decision # 92611). On March 12, 2020, the Department served notice of a ninth administrative decision, based upon decision # 144245, assessing a \$151 overpayment claimant was liable to repay (decision # 65540). On March 13, 2020, the Department served notice of a tenth administrative decision, based upon decision # 145444, assessing a \$151 overpayment claimant was liable to repay (decision # 132358).

On March 24, 2020, claimant filed timely requests for hearing on decisions # 131707, 132403, 92611, 65540, and 132358, and late requests for hearing on decisions # 135657, 134051, 144245, 145444, and 150431. On April 7, 2020, the Office of Administrative Hearings (OAH) mailed notice of a consolidated hearing on April 21, 2020 on decisions # 131707, 132403, 92611, 65540, and 132358. On April 7, 2020,

OAH also mailed notice of a separate consolidated hearing on April 21, 2020 on decisions # 135657, 134051, 144245, 145444, and 150431.

On April 21, 2020, ALJ Frank conducted a consolidated hearing at which the employer failed to appear on decisions # 135657, 134051, 144245, 145444, and 150431, and on April 23, 2020, issued five orders concluding claimant failed to show good cause for the late requests for hearing and dismissing claimant's late requests for hearing: Order No. 20-UI-148631 dismissed claimant's late request for hearing on decision # 135657; Order No. 20-UI-148638 dismissed claimant's late request for hearing on decision # 134051; Order No. 20-UI-148633 dismissed claimant's late request for hearing on decision # 144245; Order No. 20-UI-148640 dismissed claimant's late request for hearing on decision # 145444; and Order No. 20-UI-148626 dismissed claimant's late request for hearing on decision # 150431. Also on April 21, 2020, ALJ Frank conducted a separate consolidated hearing on decisions # 131707, 132403, 92611, 65540, and 132358, and April 23, 2020, issued five orders affirming those overpayment decisions: Order No. 20-UI-148644 affirmed decision # 131707 and concluded claimant was liable to repay \$151; Order No. 20-UI-148642 affirmed decision # 132403 and concluded claimant was liable to repay \$453; Order No. 20-UI-148655 affirmed decision # 92611 and concluded claimant was liable to repay \$151; Order No. 20-UI-148653 affirmed decision # 65540 and concluded claimant was liable to repay \$151; and Order No. 20-UI-148650 affirmed decision # 132358 and concluded claimant was liable to repay \$151.

On May 11, 2020, claimant filed with the Employment Appeals Board (EAB) timely applications for review of Orders No. 20-UI-148631, 20-UI-148638, 20-UI-148633, 20-UI-148640, 20-UI-148626 (dismissing claimant's late requests for hearing), and of Orders No. 20-UI-148644, 20-UI-148642, 20-UI-148655, 20-UI-148653, and 20-UI-148650 (affirming the overpayments).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 20-UI-148631, 20-UI-148638, 20-UI-148633, 20-UI-148640, 20-UI-148626, 20-UI-148644, 20-UI-148642, 20-UI-148655, 20-UI-148653, and 20-UI-148650. For case-tracking purposes, this decision is being issued in decuple (EAB Decisions 2020-EAB-0359, 2020-EAB-0362, 2020-EAB-0363, 2020-EAB-0361, 2020-EAB-0364, 2020-EAB-0365, 2020-EAB-0366, 2020-EAB-0367, 2020-EAB-0368, and 2020-EAB-0369).

Late Requests for Hearing. EAB reviewed the entire hearing record in these cases. On *de novo* review and pursuant to ORS 657.275(2), Orders No. 20-UI-148631, 20-UI-148638, 20-UI-148633, 20-UI-148640, 20-UI-148626 are **adopted**.

Overpayments to be Repaid. EAB reviewed the entire hearing record in these cases. On *de novo* review and pursuant to ORS 657.275(2), Orders No. 20-UI-148644, 20-UI-148642, 20-UI-148655, 20-UI-148653, and 20-UI-148650 are **adopted**.

DECISION: Orders No. 20-UI-148631, 20-UI-148638, 20-UI-148633, 20-UI-148640, 20-UI-148626, 20-UI-148644, 20-UI-148642, 20-UI-148655, 20-UI-148653, and 20-UI-148650 are affirmed.

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

DATE of Service: May 19, 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 ໂດຍປະຕິບັດຕາມຄຳແນະນຳທີ່ບອກໄວ້ຢູ່ຕອນຫ້າຍຂອງຄຳຕັດສິນນີ້.

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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