
EO: 200
BYE: 201826

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

058
MC 000.00
MC 000.00

<p>EMPLOYMENT APPEALS BOARD DECISION 2020-EAB-0385-R</p>
--

*EAB Decision 2020-EAB-0385 Adhered to on Reconsideration
Order No. 20-UI-149430 is Affirmed
Late Request to Reopen Denied*

PROCEDURAL HISTORY: On December 18, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant willfully made misrepresentations and failed to report material facts to obtain benefits and assessing a \$1,773 overpayment, a \$443.25 monetary penalty and a 24-week penalty disqualification from future benefits (decision # 195859). On January 8, 2018, decision # 195859 became final without claimant having filed a timely request for hearing.

On January 16, 2018, claimant filed a late request for hearing. On January 18, 2018, ALJ Kangas issued Order No. 18-UI-101141, dismissing claimant's late request for hearing subject to his right to renew the request by responding to an appellant questionnaire by February 1, 2018. On January 26, 2018, claimant filed a timely response to the appellant questionnaire. On February 6, 2018, the Office of Administrative Hearings (OAH) mailed a letter to the parties stating that Order No. 18-UI-101141 was canceled and a hearing would be scheduled to address the timeliness of claimant's hearing request and, if appropriate, the merits of decision # 195859. On February 8, 2018, OAH mailed notice of a hearing scheduled for March 8, 2018 at 10:45 a.m. On March 8, 2018, ALJ Wyatt issued Order No. 18-UI-104773 dismissing claimant's request for hearing for his failure to appear on March 8, 2018, leaving decision # 195859 undisturbed. On March 28, 2018, Order No. 18-UI-104773 became final without claimant having filed a timely request to reopen.

On April 7, 2020, claimant filed a late request to reopen the March 8, 2018 hearing. On April 21, 2020, OAH mailed notice of a hearing scheduled for May 5, 2020 at 10:45 a.m. to consider claimant's request to reopen the March 8, 2018 hearing, and if granted, claimant's late request for hearing on decision # 195859, and if granted, the merits of decision # 195859. On May 5, 2020, ALJ Wyatt conducted a hearing, and on May 7, 2020, issued Order No. 20-UI-149430, denying claimant's late request to reopen. On May 14, 2020, claimant filed a timely application for review of Order No. 20-UI-149430 with the Employment Appeals Board (EAB). On May 21, 2020, EAB issued Decision 2020-EAB-0385,

affirming Order No. 20-UI-149430. On May 26, 2020, EAB received claimant's timely written argument.

EAB erred by issuing its decision in this matter before the expiration of the written argument due date. This decision is therefore issued pursuant to EAB's authority under ORS 657.290(3) to reconsider previous decisions of EAB upon our own motion.

In his written argument, claimant requested, in essence, that EAB waive or postpone the assessment of the penalty weeks imposed by decision # 195859 due to his financial hardship.¹ However, because claimant did not file a timely request to reopen the March 8, 2018 hearing, the *only* matter EAB now has jurisdiction to review is whether or not based on the record evidence, Order No. 20-UI-149430 erred in denying claimant's late request to reopen. Claimant's written argument did not address the merits of that order, and the record evidence supports the order's conclusion that claimant did not timely request reopening of the March 8, 2018 hearing and did not establish good cause for failing to do so.

EAB has reviewed the entire hearing record and claimant's timely filed written argument. EAB Decision 2020-EAB-0385 is adhered to on reconsideration.

DECISION: EAB Decision 2020-EAB-0385 adhered to on reconsideration. Order No. 20-UI-149430 is affirmed.

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

DATE of Service: June 1, 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.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveygizmo.com/s3/5552642/EAB-Customer-Service-Survey>. You can access the survey using a computer, tablet, or smartphone. If you are unable to complete the survey online and need a paper copy of the survey, please contact our office.

¹ If claimant seeks a waiver or delay in the imposition of his penalty weeks, he should address his request to the OED Recovery Unit at 800-553-5396 for a possible resolution.



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
www.Oregon.gov/Employ/eab

The Oregon Employment Department is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Language assistance is available to persons with limited English proficiency at no cost.

El Departamento de Empleo de Oregon es un programa que respeta la igualdad de oportunidades. Disponemos de servicios o ayudas auxiliares, formatos alternos y asistencia de idiomas para personas con discapacidades o conocimiento limitado del inglés, a pedido y sin costo.