

EMPLOYMENT APPEALS BOARD DECISION
2020-EAB-0539

Late Applications for Review Dismissed

PROCEDURAL HISTORY: On August 16, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant for misconduct, and that claimant was disqualified from receiving unemployment insurance benefits. On August 17, 2017, the Department served notice of another administrative decision concluding claimant willfully misrepresented material facts to obtain benefits and assessing a \$3,616 overpayment, \$1,084.30 monetary penalty, and 52 penalty weeks (decision # 193560). On August 21, 2017, the Department amended its August 16th decision, again concluding that the employer discharged claimant for misconduct and that claimant was disqualified from receiving benefits effective April 2, 2017 (decision # 105419). On September 6, 2017, decision # 193560 became final without claimant having filed a request for hearing. On September 11, 2017, decision # 105419 became final without claimant having filed a request for hearing.

On September 18, 2019, claimant filed a late request for hearing on both decisions. On September 23, 2019, ALJ Kangas issued Order No. 19-UI-136909, dismissing claimant's request for hearing on decision # 105419, and Order No. 19-UI-136914 dismissing claimant's request for hearing on decision # 193560, as untimely without a showing of good cause, subject to his right to renew his requests by filing a response to appellant questionnaires by October 7, 2019. On October 7, 2019, claimant filed a timely response to the appellant questionnaires. On October 8, 2019, the Office of Administrative Hearings (OAH) vacated Orders No. 19-UI-136909 and No. 19-UI-136914, and on October 9, 2019, OAH mailed notices of hearings scheduled for October 23, 2019 on whether claimant's late request for hearing should be allowed, and if so, the merits of decision # 105419 and decision # 193560.

On October 23, 2019, ALJ Scott conducted hearings, and on October 24, 2019 issued Order No. 19-UI-138665, dismissing claimant's late request for hearing and leaving decision # 105419 undisturbed, and Order No. 19-UI-138668, dismissing claimant's late request for hearing and leaving decision # 193560 undisturbed. On November 13, 2019, Orders No. 19-UI-138665 and No. 19-UI-138668 became final without claimant having filed an application for review with the Employment Appeals Board (EAB). On May 11, 2020, claimant filed late applications for review of Orders No. 19-UI-138665 and No. 19-UI-138668 with the Employment Appeals Board (EAB).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 19-UI-138665 and 19-UI-138668. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2020-EAB-0539 and 2020-EAB-0538).

CONCLUSIONS AND REASONS: The applications for review are dismissed.

On May 11, 2020, claimant filed applications for review of Orders No. 19-UI-138665 and 19-UI-138668. An application for review is timely if it is filed within 20 days of the date that OAH mailed the decision for which review is sought. ORS 657.270(6); OAR 471-041-0070(1) (May 13, 2019). The deadline for claimant's applications for review was November 13, 2019. Claimant filed his applications approximately 6 months after the deadline. The applications for review therefore were late.

The 20-day filing period may be extended a "reasonable time" upon a showing of "good cause." ORS 657.875; OAR 471-041-0070(2). "Good cause" means that factors or circumstances beyond the applicant's reasonable control prevented timely filing. OAR 471-041-0070(2)(a). A "reasonable time" is seven days after the circumstances that prevented the timely filing ceased to exist. OAR 471-041-0070(2)(b). A late application for review will be dismissed unless it includes a written statement describing the circumstances that prevented a timely filing. OAR 471-041-0070(3). Although the appellant included a written statement with his applications for review, that statement provided no explanation as to why the applications for review were filed after the filing deadline expired. Accordingly, the applications for review are dismissed.

DECISION: The applications for review filed May 11, 2020 are dismissed. Orders No. 19-UI-138665 and No. 19-UI-138668 remain undisturbed.

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

DATE of Service: July 24, 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

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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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