

EMPLOYMENT APPEALS BOARD DECISION
2020-EAB-0581

Late Application for Review Dismissed Without Prejudice

PROCEDURAL HISTORY: On January 9, 2020, the Employment Department (the Department) served notice of an administrative decision concluding claimant quit work without good cause and was disqualified from receiving unemployment insurance benefits effective November 24, 2019 (decision # 122825). On January 29, 2020, decision # 122825 became final without claimant having filed a timely request for hearing. On February 24, 2020, claimant filed a late request for hearing. On March 2, 2020, ALJ Kangas issued Order No. 20-UI-145400, dismissing claimant's late request for hearing subject to claimant's right to renew the request by responding to an appellant questionnaire by March 16, 2020 and leaving decision #122825 undisturbed. On March 23, 2020, Order No. 20-UI-145400 became final without claimant having filed an application for review with the Employment Appeals Board (EAB).

On August 12, 2020, claimant filed a late response to the appellant questionnaire with the Office of Administrative Hearings (OAH), and a late application for review of Order No. 20-UI-145400 with EAB. On August 13, 2020, ALJ Kangas of OAH issued a letter stating that because claimant's questionnaire response was late, OAH would not consider it, and Order No. 20-UI-145400 would remain in effect. This matter is before EAB based on claimant's late application for review of Order No. 20-UI-145400.

FINDINGS OF FACT: (1) On February 24, 2020, when claimant emailed the Department with a late request for hearing, he provided a different address than the address on decision # 122825.

(2) On March 2, 2020, the OAH sent Order No. 20-UI-145400 to the same incorrect address that appeared on decision # 122825.

CONCLUSIONS AND REASONS: Claimant's late application for review of Order No. 20-UI-145400 is dismissed without prejudice.

On August 12, 2020, claimant submitted an application for review of Order No. 20-UI-145400. ORS 657.270(6) and ORS 657.270(7)(b) required the application for review to be filed no later than March

23, 2020. The appellant's application for review was therefore late, and the application for review is dismissed.

The deadline for filing an application for review may be extended a reasonable time upon a showing of good cause. *See* ORS 657.875; OAR 471-041-0070 (May 13, 2019). If the appellant believes he had good cause and filed his late application for review within a reasonable time, the appellant may request that EAB reconsider this decision under OAR 471-041-0145.

EAB will dismiss any request for reconsideration that does not include **all five** of the following:

1. The appellant must file the request for reconsideration within 20 days of the date this decision was mailed, September 8, 2020, *and*
2. The appellant must include a statement on the request for reconsideration declaring that he sent a copy of the request to the other party, *and*
3. The appellant must provide additional specific details about the reason he filed a late application for review. For example, the appellant should include specific information about the date he received the ALJ's order, whether he read it, whether he agreed or disagreed with the ALJ's order, the reason(s) why he did not file the application for review before the deadline, whether he or his family was ill or quarantined around the deadline, whether he could not file a timely application for review for any other reason(s) not related to illness or quarantine, how that affected his ability to file a timely application for review, and any other specific details that might help EAB determine whether or not the appellant had "good cause," which means factors or circumstances beyond his reasonable control prevented them from filing a timely application for review.

Claimant submitted a new, corrected address with his application for review. *See* Claimant's Application for Review. If claimant files a request for reconsideration, claimant should include information about when claimant moved from his former address as listed on decision # 122825 and the certificate of mailing for Order No. 20-UI-145400, to the address he submitted on his application for review. If applicable, claimant should also include information about if and how OAH's failure to send Order No. 20-UI-145400 to claimant's correct address affected his ability to file an application for review of Order No. 20-UI-145400 in a timely manner. Claimant should also include information about any contact or communication he had with the OAH after he requested a hearing on decision # 122825; *and*

4. The appellant must provide the date the circumstances that prevented them from filing a timely application for review (which he listed in response to # 3, above) ceased to exist, *and*
5. The appellant must provide sufficient information to prove that he filed his application for review within seven days of that date.

The appellant may file a request for reconsideration in many ways; please note that you need only file *one* request for reconsideration:

1. Use your smart phone, tablet, or computer to fill out the “File a Written Argument” form, available on EAB’s website: <https://www.oregon.gov/EMPLOY/EAB/Pages/default.aspx>, *or*
2. Use your smart phone, tablet, or computer to send an email to EAB at OED_EAB_OFFICE@oregon.gov, *or*
3. Send the request by U.S. mail or another delivery service, addressed to 875 Union St NE, Salem, Oregon 97311, *or*
4. Send EAB a fax at 503-378-2129.

DECISION: The application for review filed August 12, 2020 is dismissed without prejudice. Order No. 20-UI-145400 remains undisturbed.

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

DATE of Service: August 19, 2020

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.



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

ទោរទៅ – តម្រូវការនេះមិនមែនជាភារកិច្ចរបស់រដ្ឋទេ បើសិនជាអ្នកមិនបានបំពេញភារកិច្ចរបស់លោកអ្នក។ បើលោកអ្នកមិនបានបំពេញភារកិច្ចរបស់លោកអ្នក រដ្ឋអាចដាក់ពាក្យប្តឹងសុំឲ្យមានការពិនិត្យរឿងក្តីឡើងវិញជាមួយតុលាការឧទ្ធរណ៍រដ្ឋ Oregon ដោយអនុវត្តតាមសេចក្តីណែនាំដែលសរសេរនៅខាងចុងបញ្ចប់នៃសេចក្តីសម្រេចនេះ។

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.

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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