

**EMPLOYMENT APPEALS BOARD DECISION**  
**2020-EAB-0706**

*Late Applications for Review Dismissed*

**PROCEDURAL HISTORY:** On August 3, 2020, the Oregon Employment Department (the Department) served, by mail, notice of an administrative decision concluding claimant quit work without good cause and was disqualified from receiving unemployment insurance benefits effective March 8, 2020 (decision # 140609). On August 7, 2020, the Department served, by mail, notice of another administrative decision, based in part on decision # 140609, concluding claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits and assessing an \$8,592 overpayment, a \$388.80 monetary penalty, and a 16-week penalty disqualification from future benefits. Claimant filed a timely request for hearing on decision # 140609 and the August 7, 2020 overpayment and penalty decision.

On August 31, 2020, the Office of Administrative Hearings (OAH) served, by mail, notice of a consolidated telephone hearing regarding both administrative decisions scheduled for September 10, 2020 at 1:30 p.m., at which claimant failed to appear. On September 18, 2020, ALJ M. Davis issued Order No. 20-UI-154134 dismissing claimant's request for hearing on decision # 140609 based on claimant's failure to appear, and leaving decision # 140609 undisturbed. On September 18, 2020, ALJ M. Davis also issued Order No. 20-UI-154132 dismissing claimant's request for hearing on the August 7, 2020 overpayment and penalty decision based on claimant's failure to appear, and leaving that decision undisturbed.

On October 5, 2020, claimant filed timely requests to reopen the September 10, 2020 hearing regarding decision # 140609 and the overpayment and penalty decision. ALJ Kangas considered claimant's requests to reopen, and on October 15, 2020, issued Order No. 20-UI-155306, denying claimant's request to reopen the September 10, 2020 hearing regarding decision # 140609, and Order No. 20-UI-155304, denying claimant's request to reopen the September 10, 2020 hearing regarding the overpayment and penalty decision. On November 4, 2020, Orders No. 20-UI-155306 and 20-UI-155304 became final without claimant having filed timely applications for review with the Employment Appeals Board (EAB). On November 5, 2020, claimant filed late applications for review of Orders No. 20-UI-155306 and 20-UI-155304 by mail with EAB.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 20-UI-155306 and 20-UI-155304. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2020-EAB-0705 and 2020-EAB-0706, respectively).

EAB considered claimant's written argument in reaching this decision.

**FINDINGS OF FACT:** (1) Order No. 20-UI-155306 mailed to claimant on October 15, 2020 stated, "You may appeal this decision by filing the attached form Application for Review with the Employment Appeals Board within 20 days of the date that this decision is mailed." Order No. 20-UI-155306 at 3. Order No. 20-UI-155306 also stated on its Certificate of Mailing, "Any appeal from this Order must be filed on or before November 4, 2020 to be timely."

(2) Order No. 20-UI-155304 mailed to claimant on October 15, 2020 stated, "You may appeal this decision by filing the attached form Application for Review with the Employment Appeals Board within 20 days of the date that this decision is mailed." Order No. 20-UI-155304 at 3. Order No. 20-UI-155304 also stated on its Certificate of Mailing, "Any appeal from this Order must be filed on or before November 4, 2020 to be timely."

(3) On November 5, 2020, claimant filed, by mail, applications for review of Orders No. 20-UI-155306 and 20-UI-155304.

**CONCLUSIONS AND REASONS:** Claimant's late applications for review of Orders No. 20-UI-155306 and 20-UI-155304 are dismissed.

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 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).

The applications for review of Orders No. 20-UI-155306 and 20-UI-155304 were due November 4, 2020. The filing date for an application for review filed by mail is the postmark date affixed to the envelope in which the application was mailed. OAR 471-041-0065(1)(b) (May 13, 2019). The postmark date on the envelope in which claimant mailed her applications for review of Orders No. 20-UI-155306 and 20-UI-155304 was November 5, 2020. Therefore, November 5, 2020 was the filing date of claimant's applications for review. Because claimant did not file the applications for review until November 5, 2020, the applications for review were late.

Claimant provided a written statement with each application for review. However, claimant's written statement did not describe the circumstances that prevented claimant from filing the applications for review on time. Accordingly, under OAR 471-041-0070(3), claimant did not show good cause for the late applications for review, and claimant's late applications for review are dismissed.

**DECISION:** The applications for review filed November 5, 2020 are dismissed. Orders No. 20-UI-155306 and 20-UI-155304 remain undisturbed.<sup>1</sup>

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

**DATE of Service: November 18, 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](https://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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<sup>1</sup> This decision denies payment of your Unemployment Insurance (UI) benefits.

However, you may be eligible for Pandemic Unemployment Assistance (PUA) benefits for the period you are not eligible for other benefits as long as you are unable to work, unavailable for work, or unemployed due to the COVID-19 public health emergency. PUA is a new unemployment benefits program available through the Oregon Employment Department in response to the COVID-19 pandemic.

Visit <https://unemployment.oregon.gov> for more information, to apply for PUA, or to contact the Oregon Employment Department using the “Contact Us” form. You can also apply for PUA by calling 1-833-410-1004, but please be aware that the PUA staff cannot answer questions about this decision that denies payment of regular Unemployment Insurance (UI) benefits.



# 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**

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](http://www.Oregon.gov/Employ/eab)

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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.