

**EMPLOYMENT APPEALS BOARD DECISION**  
**2020-EAB-0812**

*Late Application for Review Dismissed Without Prejudice*

**PROCEDURAL HISTORY AND FINDINGS OF FACT:** On March 4, 2020, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant for misconduct, disqualifying claimant from receiving benefits effective January 12, 2020 (decision # 75348). Claimant filed a timely request for hearing. On March 20, 2020, the Office of Administrative Hearings (OAH) mailed notice of a hearing scheduled for April 2, 2020 at 8:15 a.m., at which time claimant failed to appear. On April 3, 2020, ALJ Murdock issued Order No. 20-UI-147447, dismissing claimant's hearing request for failure to appear. On April 21, 2020, claimant filed a timely request to reopen the hearing. ALJ Kangas reviewed claimant's request, and on April 30, 2020 issued Order No. 20-UI-149079, denying the request. On May 18, 2020, claimant filed a timely application for review with the Employment Appeals Board (EAB). On July 8, 2020, EAB issued Decision 2020-EAB-0510 reversing Order No. 20-UI-149079 and remanding the case for a new hearing on claimant's request to reopen.

On July 15, 2020, OAH mailed notice of a hearing scheduled for July 28, 2020 at 10:45 a.m. to consider claimant's request to reopen, and if granted, the merits of decision # 75348. On July 28, 2020, claimant failed to appear at the hearing and, on July 29, 2020, ALJ Buckley issued Order No. 20-UI-152685, dismissing claimant's request to reopen for failure to appear. On August 18, 2020, Order No. 20-UI-152685 became final without claimant having filed a timely request to reopen the hearing. On August 29, 2020, claimant filed a late request to reopen the hearing. ALJ Kangas reviewed claimant's request, and on September 21, 2020 issued Order No. 20-UI-154188, denying the request. On October 12, 2020, Order No. 20-UI-154188 became final without claimant having filed an application for review with EAB. On December 22, 2020, claimant filed a late application for review with EAB.

**CONCLUSIONS AND REASONS:** Claimant's late application for review of Order No. 20-UI-154188 is dismissed without prejudice.

On December 22, 2020, the appellant filed an application for review of Order No. 20-UI-154188 with the EAB. ORS 657.270(6) and ORS 657.270(7)(b) required the application for review to be filed no

later than October 12, 2020. The appellant's application for review is therefore late, and this 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 they have good cause and filed their late application for review within a reasonable time, the appellant may request that EAB reconsider this decision under OAR 471-041-0145 (May 13, 2019).

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; the date this decision was mailed is **January 13, 2021**, making the deadline **February 2, 2021**, to file the request for reconsideration, *and*
2. The appellant must include a statement on the request for reconsideration declaring that they sent a copy of the request to the other party, *and*
3. The appellant must provide additional specific details about the reason they filed a late application for review. For example, the appellant should include specific information about the date they received Order No. 20-UI-154188, whether they read it, whether they agreed or disagreed with Order No. 20-UI-154188, the reason(s) why they did not file the application for review before the deadline, whether they or their families were ill, hospitalized or quarantined around the deadline, whether they could not file a timely application for review for any other reason(s) not related to illness, hospitalization, or quarantine, how that affected their 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 their reasonable control prevented them from filing a timely application for review, *and*
4. The appellant must provide the date the circumstances that prevented them from filing a timely application for review (which they listed in response to #3, above) ceased to exist, *and*
5. The appellant must provide sufficient information to prove that they filed their 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](mailto: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 December 22, 2020 is dismissed without prejudice. Order No. 20-UI-154188 remains undisturbed.

S. Alba and D. P. Hettle.

**DATE of Service: January 13, 2021**

**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**

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 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**  
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