

EMPLOYMENT APPEALS BOARD DECISION
2021-EAB-0136

Applications for Review Dismissed

PROCEDURAL HISTORY: On August 24, 2020, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for Uber Technologies Inc. without good cause with and was disqualified from receiving unemployment insurance benefits effective January 5, 2020 (decision # 92409). On August 24, 2020, the Department also served notice of an administrative decision concluding that claimant was not available for work from March 22, 2020 through July 25, 2020 and was denied benefits for that period and until the reason for the denial had ended (decision # 93219). On September 14, 2020, decisions # 92409 and 93219 became final without claimant having filed a request for hearing. On November 16, 2020, the Department served notice of an administrative decision, based in part on decision # 93219, concluding that claimant received benefits to which claimant was not entitled and assessing an overpayment of \$12,333 in regular unemployment and Federal Pandemic Unemployment Compensation (FPUC) benefits that claimant was required to repay to the Department (decision # 81820). On December 7, 2020, decision # 81820 became final without claimant having filed a timely request for hearing.

On January 11, 2021, claimant filed a late request for hearing on decisions # 92409, 93219, and 81820. On January 27, 2021, ALJ Kangas issued Orders No. 21-UI-159859, 21-UI-159860 and 21-UI-159858, dismissing claimant's late requests for hearing on decisions # 92409, 93219 and 81820 as late without a showing of good cause, subject to claimant's right to renew the requests by responding to appellant questionnaires by February 10, 2021. On February 16, 2021, Orders No. 21-UI-159859, 21-UI-159860, and 21-UI-159858 became final without claimant having filed responses to the appellant questionnaires with OAH or timely applications for review with the Employment Appeals Board (EAB). On February 18, 2021, claimant filed late applications for review of Orders No. 21-UI-159859, 21-UI-159860, and 21-UI-159858 with EAB.

WRITTEN ARGUMENT: EAB did not consider claimant's written argument when reaching the decision regarding Order No. 21-UI-159859 because they did not include a statement declaring that they provided a copy of their argument to the opposing party or parties as required by OAR 471-041-0080(2)(a) (May 13, 2019). EAB considered claimant's written argument when reaching the decisions regarding Orders No. 21-UI-159860 and 21-UI-159858.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 21-UI-159859, 21-UI-159860, and 21-UI-159858. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2021-EAB-0137, 2021-EAB-0136, and 2021-EAB-0135).

FINDINGS OF FACT: (1) Order No. 21-UI-159859, mailed to claimant on January 27, 2021, 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 this decision is mailed.” Order No. 21-UI-159859 at 2. Order No. 21-UI-159859 also stated on its Certificate of Mailing, “Any appeal from this Order must be filed on or before February 16, 2021 to be timely.”

(2) Order No. 21-UI-159860, mailed to claimant on January 27, 2021, 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 this decision is mailed.” Order No. 21-UI-159860 at 2. Order No. 21-UI-159860 also stated on its Certificate of Mailing, “Any appeal from this Order must be filed on or before February 16, 2021 to be timely.”

(3) Order No. 21-UI-159858, mailed to claimant on January 27, 2021, 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 this decision is mailed.” Order No. 21-UI-159858 at 2. Order No. 21-UI-159858 also stated on its Certificate of Mailing, “Any appeal from this Order must be filed on or before February 16, 2021 to be timely.”

CONCLUSIONS AND REASONS: Claimant’s late applications for review of Orders No. 21-UI-159859, 21-UI-159860, and 21-UI-159858 are dismissed.

An application for review is timely if it is filed within 20 days of the date that the Office of Administrative Hearings (OAH) mailed the order 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. 21-UI-159859, 21-UI-159860, and 21-UI-159858 were due February 16, 2021. Because claimant did not file their applications for review until February 18, 2021, the applications for review were late. Claimant provided a written statement with the applications for review. However, claimant’s written statement did not describe the circumstances that prevented claimant from filing the applications for review on time. Accordingly, 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 February 18, 2021 are dismissed. Orders No. 21-UI-159859, 21-UI-159860, and 21-UI-159858 remain undisturbed.

S. Alba and D. P. Hettle.

DATE of Service: March 10, 2021

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 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 ໂດຍປະຕິບັດຕາມຄໍາແນະນໍາທີ່ບອກໄວ້ຢູ່ຕອນຫ້າຍຂອງຄໍາຕັດສິນນີ້.

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.

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