

EMPLOYMENT APPEALS BOARD DECISION
2021-EAB-0165-R

Request for Reconsideration Allowed
EAB Decision 2021-EAB-0165 Adhered to On Reconsideration
Disqualification

PROCEDURAL HISTORY: On November 10, 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 unemployment insurance benefits effective June 21, 2020 (decision # 153657). On November 30, 2020, decision # 153657 became final without claimant having filed a request for hearing. On January 13, 2021, claimant filed a late request for hearing. On February 2, 2021, the Office of Administrative Hearings (OAH) served notice of a hearing scheduled for February 18, 2021 to consider claimant's late request for hearing and, if allowed, the merits of decision # 153657. On February 4, 2021, OAH served notice that the date of the hearing had changed to February 19, 2021. On February 19, 2021, ALJ Meerdink conducted a hearing at which the employer failed to appear, and issued Order No. 21-UI-161283, dismissing claimant's late request for hearing as late without good cause. On March 8, 2021, claimant filed an application for review with the Employment Appeals Board (EAB). On March 17, 2021, EAB issued EAB Decision 2021-EAB-0165, affirming Order No. 21-UI-161283.

On March 26, 2021, after EAB issued EAB Decision 2021-EAB-0165, EAB received from claimant a timely-filed written argument, which EAB construed as a timely request for reconsideration of EAB Decision 2021-EAB-0165. This decision is issued pursuant to EAB's authority under ORS 657.290(3).

CONCLUSIONS AND REASONS: Claimant's request for reconsideration is allowed. EAB Decision 2021-EAB-0165 is adhered to on reconsideration.

ORS 657.290(3) authorizes EAB to reconsider any previous decision of the Employment Appeals Board, including "the making of a new decision to the extent necessary and appropriate for the correction of previous error of fact or law." "Any party may request reconsideration to correct an error of material fact or law, or to explain any unexplained inconsistency with Employment Department rule, or officially stated Employment Department position, or prior Employment Department practice." OAR 471-041-0145(1) (May 13, 2019).

Claimant filed a timely written argument. EAB's decision to issue EAB Decision 2021-EAB-0165 before the written argument due date was error. Claimant's request for reconsideration therefore is allowed.

Order No. 21-UI-161283 dismissed claimant's request for hearing on decision # 153657 as late without a showing of good cause. EAB Decision 2021-EAB-0165, which affirmed Order No. 21-UI-161283, solely addressed that order's ruling on whether claimant had good cause to file a late request for hearing. The bulk of claimant's written argument and attached documents address the merits of decision # 153657, regarding whether claimant was discharged for misconduct connected with work, and does not explain why claimant filed the request for hearing late, or suggest that EAB made an error of law in concluding that claimant did not have good cause for the late filing. Nor does the record otherwise show that EAB made an error of law in concluding that claimant did not have good cause for the late filing, and affirming Order No. 21-UI-161283. For these reasons, EAB Decision 2021-EAB-0165 is adhered to on reconsideration.

DECISION: Claimant's request for reconsideration is allowed. EAB Decision 2021-EAB-0165 is adhered to on reconsideration.

S. Alba and D. P. Hettle.

DATE of Service: April 22, 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 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

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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