

EMPLOYMENT APPEALS BOARD DECISION
2021-EAB-0588

Late Applications for Review Dismissed
Las Aplicaciones Tardías Para Revisión De Las Órdenes Judiciales Son Rechazadas

PROCEDURAL HISTORY: On November 20, 2020, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for Pacific Motion LLC without good cause and was disqualified from receiving unemployment insurance benefits effective March 1, 2020 (decision # 65442). Also on November 20, 2020, the Department served notice of an administrative decision concluding that claimant was not available for work from March 29, 2020 through November 14, 2020 (weeks 14-20 through 46-20) and was denied benefits for that period and until the reason for the denial had ended (decision # 70859). On December 10, 2020, decisions # 65442 and 70859 became final without claimant having filed a request for hearing on either decision. On February 1, 2021, the Department served notice of an administrative decision, based in part on decision # 70859, concluding that claimant received benefits to which claimant was not entitled, and assessing an overpayment of \$21,728 in regular unemployment and Federal Pandemic Unemployment Compensation (FPUC) benefits that claimant was required to repay the Department (decision # 135438). On February 22, 2021, decision # 135438 became final without claimant having filed a request for hearing.

On March 24, 2021, claimant filed late requests for hearing on decisions # 65442, 70859, and 135438. ALJ Kangas considered claimant's requests, and on April 22, 2021 issued Orders No. 21-UI-165363, 21-UI-165362, and 21-UI-165361, dismissing claimant's late requests for hearing on decisions # 65442, 70859, and 135438 as late, subject to claimant's right to renew the requests by responding to appellant questionnaires by May 6, 2021. On May 12, 2021, Orders No. 21-UI-165363, 21-UI-165362, and 21-UI-165361 became final without claimant having filed responses to the appellant questionnaires with the Office of Administrative Hearings (OAH) or applications for review with the Employment Appeals Board (EAB). On July 21, 2021, claimant filed late applications for review of Orders No. 21-UI-165363, 21-UI-165362, and 21-UI-165361 with EAB.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 21-UI-165363, 21-UI-165362, and 21-UI-165361. For case-tracking purposes, this decision is being issued in triplicate (EAB Decisions 2021-EAB-0588, 2021-EAB-0587, and 2021-EAB-0589).

De acuerdo con OAR 471-041-0095 (29 de octubre de 2006), EAB consolidó el reviso de Las Órdenes Judiciales 21-UI-165363, 21-UI-165362, y 21-UI-165361. Para propósito de seguir estos casos, esta decisión se está dando por triplicado (EAB Decisiones 2021-EAB-0588, 2021-EAB-0587, y 2021-EAB-0589).

FINDINGS OF FACT: (1) Order No. 21-UI-165363, mailed to claimant on April 22, 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-165363 at 2. Order No. 21-UI-165363 also stated on its Certificate of Mailing, “Any party may appeal this Order by filing a Request for Review with the Employment Appeals Board no later than May 12, 2021.”

(2) Order No. 21-UI-165362, mailed to claimant on April 22, 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-165362 at 2. Order No. 21-UI-165362 also stated on its Certificate of Mailing, “Any party may appeal this Order by filing a Request for Review with the Employment Appeals Board no later than May 12, 2021.”

(3) Order No. 21-UI-165361, mailed to claimant on April 22, 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-165361 at 2. Order No. 21-UI-165361 also stated on its Certificate of Mailing, “Any party may appeal this Order by filing a Request for Review with the Employment Appeals Board no later than May 12, 2021.”

CONCLUSIONS AND REASONS: Claimant’s late applications for review of Orders No. 21-UI-165363, 21-UI-165362, and 21-UI-165361 are dismissed.

CONCLUSIONES Y RAZONES: *Las aplicaciones tardías para revisión de Las Órdenes Judiciales 21-UI-165363, 21-UI-165362, y 21-UI-165361 presentadas por la reclamante son rechazadas.*

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-165363, 21-UI-165362, and 21-UI-165361 were due by May 12, 2021. Because claimant did not file their applications for review until July 21, 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 them 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 late applications for review filed July 21, 2021 are dismissed. Orders No. 21-UI-165363, 21-UI-165362, and 21-UI-165361 remain undisturbed.

***DECISIÓN:** Las aplicaciones tardías para revisión presentadas el 21 de julio de 2021 son rechazadas. Las Órdenes Judiciales 21-UI-165363, 21-UI-165362, y 21-UI-165361 permanecen intactas.*

S. Alba and D. Hettle;
A. Steger-Bentz, not participating.

DATE of Service: August 12, 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.

NOTE: 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.

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.

***NOTA:** Usted puede apelar esta decisión presentando una solicitud de revisión judicial ante la Corte de Apelaciones de Oregon (Oregon Court of Appeals) dentro de los 30 días siguientes a la fecha de notificación indicada arriba. Vea ORS 657.282. Para obtener formularios e información, puede escribir a la Corte de Apelaciones de Oregon, Sección de Registros (Oregon Court of Appeals/Records Section), 1163 State Street, Salem, Oregon 97310 o visite el sitio web en courts.oregon.gov. En este sitio web, hay información disponible en español.*

***NOTA:** Esta decisión niega el pago de los beneficios regulares del desempleo (UI).*

Sin embargo, usted puede ser elegible para los beneficios de Asistencia por Desempleo Pandémico (PUA) por el período en que no es elegible para otros beneficios debido a no poder trabajar, no estar disponible para trabajar, o por estar desempleado debido a la emergencia de salud pública COVID-19. PUA es un nuevo programa de beneficios de desempleo disponible a través del Departamento de Empleo de Oregon en respuesta a la pandemia de COVID-19.

Hay más información sobre PUA, y un formulario para aplicar por PUA en línea en <https://unemployment.oregon.gov>. O puede contactar al Departamento de Desempleo utilizando el botón “Contacto” en línea. También puede presentar una solicitud para PUA por teléfono. Se proporciona interpretación gratuita. La línea directa gratuita del programa PUA es 1-833-410-1004. Tenga en cuenta que los representantes del programa PUA no pueden responder a preguntas sobre esta decisión que niega el pago de los beneficios regulares del desempleo (UI).

Por favor, ayúdenos mejorar nuestros servicios completando un formulario de encuesta sobre nuestro servicio de atención al cliente. Para llenar este formulario, puede visitar <https://www.surveymzmo.com/s3/5552642/EAB-Customer-Service-Survey>. Puede acceder a la encuesta usando una computadora, tableta, o teléfono inteligente. Si no puede llenar el formulario sobre el internet, puede comunicarse con nuestra oficina para una copia impresa de la encuesta.



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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www.Oregon.gov/Employ/eab

The Oregon Employment Department is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Language assistance is available to persons with limited English proficiency at no cost.

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.