

EMPLOYMENT APPEALS BOARD DECISION
2021-EAB-0602-R

Request for Reconsideration Allowed
EAB Decision 2021-EAB-0602 Adhered to on Reconsideration
Late Application for Review Allowed
Late Request for Hearing Dismissed

PROCEDURAL HISTORY AND FINDINGS OF FACT: On March 30, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was overpaid \$80 in regular unemployment insurance benefits and \$600 in Federal Pandemic Unemployment Compensation (FPUC) benefits that they must repay the Department (decision # 161858). On April 19, 2021, decision # 161858 became final without claimant having filed a request for hearing. On May 14, 2021, claimant filed a late request for hearing. ALJ Kangas reviewed claimant's request, and on May 26, 2021 issued Order No. 21-UI-167512, dismissing the request as late without a showing of good cause, subject to claimant's right to renew the request by responding to an appellant questionnaire by June 9, 2021. On June 15, 2021, Order No. 21-UI-167512 became final without claimant having filed a response to the appellant questionnaire or an application for review with the Employment Appeals Board (EAB). On July 2, 2021, claimant filed a late response to the appellant questionnaire and a late application for review of Order No. 21-UI-167512 with EAB. On July 20, 2021, ALJ Kangas mailed a letter to claimant stating that because claimant's response to the appellant questionnaire was late, it would not be considered, another order would not be issued, and Order No. 21-UI-167512 remained in effect. The matter came before EAB based upon claimant's July 2, 2021 application for review of Order No. 21-UI-167512, and on August 5, 2021, EAB issued EAB Decision 2021-EAB-0602, allowing claimant's late application for review and affirming Order No. 21-UI-167512, and served the decision on claimant. On August 15, 2021, claimant filed a request for reconsideration with EAB.

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-0602 is adhered to on reconsideration.

ORS 657.290(3) authorizes the Employment Appeals Board 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). The request is subject to dismissal unless it is filed on or before the 20th day after the decision sought to be reconsidered was mailed. OAR 471-041-0145(2).

Here, EAB issued EAB Decision 2021-EAB-0602 on August 5, 2021. Claimant filed their request for reconsideration on August 15, 2021, less than 20 days after EAB Decision 2021-EAB-0602 was mailed. Claimant’s request for reconsideration therefore was timely, and is allowed.

EAB Decision 2021-EAB-0602 concluded that claimant’s late application for review was allowed but affirmed Order No. 21-UI-167512’s dismissal of claimant’s late request for hearing because claimant filed their hearing request on May 14, 2021 and failed to establish good cause to extend the filing deadline beyond the April 19, 2021 deadline. EAB Decision 2021-EAB-0602 at 2-3. Claimant’s request for reconsideration included a statement indicating that claimant did not receive Order No. 21-UI-167512 until a month after it was post-marked. Claimant had previously conveyed that fact in their appellant questionnaire response, which EAB Decision 2021-EAB-0602 cited as a basis to allow claimant’s late application for review. EAB Decision 2021-EAB-0602 at 2. However, as mentioned above, after allowing claimant’s late application for review, EAB Decision 2021-EAB-0602 went on to analyze claimant’s late request for hearing and concluded that claimant did not establish good cause for filing the request for hearing late. EAB Decision 2021-EAB-0602 at 2-3. In any event, claimant’s statement included with their request for reconsideration did not assert or show that EAB Decision 2021-EAB-0602 contained an error of material fact or law, or any inconsistency with Employment Department rule, officially stated Employment Department position, or prior Employment Department practice. Because claimant has not shown that EAB made an error of the type described in OAR 471-041-0145(1), EAB Decision 2021-EAB-0602 is adhered to on reconsideration.

DECISION: Claimant’s request for reconsideration filed August 15, 2021 is allowed. EAB Decision 2021-EAB-0602 is adhered to on reconsideration.

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

DATE of Service: September 3, 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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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 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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