

EMPLOYMENT APPEALS BOARD DECISION
2021-EAB-0606

Application for Review Dismissed
No Justiciable Controversy

PROCEDURAL HISTORY AND FINDINGS OF FACT: On November 23, 2020, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause and was disqualified from receiving unemployment insurance benefits effective March 8, 2020 (decision # 82833). On December 14, 2020, decision # 82833 became final without claimant having filed a request for hearing. On March 17, 2021, claimant filed a late request for hearing. On April 14, 2021, ALJ Kangas issued Order No. 21-UI-164819, dismissing claimant's request for hearing as late without a showing of good cause, subject to claimant's right to renew the request by responding to an appellant questionnaire by April 28, 2021. On May 4, 2021, claimant filed a late response to the appellant questionnaire and a timely application for review of Order No. 21-UI-164819 with the Employment Appeals Board (EAB). On May 17, 2021, ALJ Kangas mailed a letter to claimant stating that because claimant's response was late, the Office of Administrative Hearings (OAH) would not consider the response or issue another order regarding the matter, and Order No. 21-UI-164819 remained in effect. EAB reviewed Order No. 21-UI-164819 based upon claimant's May 4, 2021 application for review.

On June 8, 2021, EAB issued Appeals Board Decision 2021-EAB-0419, setting aside Order No. 21-UI-164819 and remanding the matter for a hearing on whether claimant's late request for hearing on decision # 82833 should be allowed and, if so, the merits of that decision. On June 10, 2021, the Office of Administrative Hearings (OAH) mailed notice of hearing on June 30, 2021 to consider claimant's late request for hearing and if allowed, the merits of decision # 82833. On June 30, 2021, ALJ Janzen conducted a hearing, and on July 1, 2021 issued Order No. 21-UI-169662, allowing claimant's late request for hearing and concluding that the employer discharged claimant, but not for misconduct, which did not disqualify claimant from receiving unemployment insurance benefits. On July 21, 2021, claimant filed an application for review of Order No. 21-UI-169662 with EAB.

WRITTEN ARGUMENT: EAB considered claimant's written argument in reaching this decision.

CONCLUSIONS AND REASONS: Claimant's application for review of Order No. 21-UI-169662 presents no justiciable controversy and is dismissed.

On July 21, 2021, the Employment Appeals Board (EAB) received from claimant an application for review of an order that allowed the appellant benefits. Claimant did not assign error to any portion of that order, did not request reversal of any portion of the order, and alleged no facts entitling claimant to further relief in this matter. Accordingly, there is no justiciable controversy before EAB based upon claimant's application for review. *See accord Barcik v. Kubiacyk*, 321 Or 174, 895 P2d 765 (1995). Because the case before EAB presents no justiciable controversy, the application for review of Order No. 21-UI-169662 is dismissed, and Order No. 21-UI-169662 remains undisturbed.

DECISION: The application for review filed by claimant on July 21, 2021 is dismissed. Order No. 21-UI-169662 remains undisturbed.

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

DATE of Service: August 13, 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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