

EMPLOYMENT APPEALS BOARD DECISION
2021-EAB-0677

Affirmed
Disqualification
Overpayment and Penalties

PROCEDURAL HISTORY: On November 6, 2020, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause, disqualifying claimant from receiving unemployment insurance benefits effective March 1, 2020 (decision # 142422). On November 30, 2020, decision # 142422 became final without claimant having filed a request for hearing. On December 9, 2020, the Department served notice of an administrative decision, based in part on decision # 142422, concluding that claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits, and assessing a \$2,165 overpayment of regular benefits, a \$6,000 overpayment of Federal Pandemic Unemployment Compensation (FPUC) and Lost Wage Assistance (LWA) benefits, a \$324.75 monetary penalty, and 14 penalty weeks. On December 11, 2020, claimant filed a late request for hearing on decision #142422 and a timely request for hearing on the December 9, 2020 overpayment decision.

ALJ Kangas considered claimant's late request for hearing on decision #142422, and on December 17, 2020 issued Order No. 20-UI-157829, dismissing claimant's request for hearing as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by December 31, 2020. On December 19, 2020, claimant filed a timely response to the appellant questionnaire, and on December 23, 2020 the Office of Administrative Hearings (OAH) mailed a letter to the parties stating that Order No. 20-UI-157829 was vacated and that a hearing would be scheduled to determine whether claimant's late request for hearing would be allowed and, if so, the merits of decision # 142422. On December 30, 2020, OAH served notice of a hearing scheduled for January 15, 2021 at 8:15 a.m. to consider whether claimant's late request for hearing on decision #142422 should be allowed and, if so, the merits of that decision. On January 15, 2021, claimant failed to appear at the hearing, and ALJ M. Davis issued Order No. 21-UI-159263, dismissing the hearing request due to claimant's failure to appear. On January 24, 2021, claimant filed a request to reopen the January 15, 2021 hearing.

On July 23, 2021, OAH served notice of a consolidated hearing scheduled for August 10, 2021 at 9:30 a.m. to consider the merits of the December 9, 2020 overpayment decision and claimant's request to reopen the hearing on decision # 142422 and, if allowed, claimant's late request for hearing of decision

142422 and, if allowed, the merits of decision # 142422. On August 10, 2021, ALJ Murdock conducted a hearing, and on August 17, 2021 issued Order No. 21-UI-172671, allowing claimant's request to reopen the January 15, 2021 hearing and late request for hearing on decision # 142422, and affirming that decision. On August 18, 2021, ALJ Murdock issued Order No. 21-UI-172871, affirming the December 9, 2020 overpayment decision. On August 20, 2021, claimant filed applications for review of Orders No. 21-UI-172671 and 21-UI-172871 with the Employment Appeals Board (EAB).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 21-UI-172671 and 21-UI-172871. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2021-EAB-0676 and 2021-EAB-0677).

EAB reviewed the entire combined hearing record. On *de novo* review and pursuant to ORS 657.275(2), the orders under review are **adopted**.

DECISION: Orders No. 21-UI-172671 and 21-UI-172871 are affirmed.

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

DATE of Service: September 24, 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: One of these decisions denies payment of your Unemployment Insurance (UI) benefits.

However, you may be eligible for Pandemic Unemployment Assistance (PUA) benefits **for weeks ending September 4, 2021 and prior** as long as you were not eligible for other benefits during that time, and were unable to work, unavailable for work, or unemployed due to the COVID-19 public health emergency. PUA was an unemployment benefits program available through the Oregon Employment Department in response to the COVID-19 pandemic. The program ended on September 4, 2021.

Visit <https://unemployment.oregon.gov> for more information, or to contact the Oregon Employment Department using the "Contact Us" form. You can also call 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.



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 الإستئناف 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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