

**EMPLOYMENT APPEALS BOARD DECISION**  
**2021-EAB-0724**

*Affirmed*  
*Late Request for Hearing Dismissed*

**PROCEDURAL HISTORY:** On January 27, 2021, 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 January 10, 2021 (decision # 85405). On February 16, 2021, decision # 85405 became final without claimant having filed a request for hearing. On March 7, 2021, claimant filed a late request for hearing. ALJ Kangas considered claimant's request, and on April 6, 2021 issued Order No. 21-UI-164218, dismissing claimant's request for hearing as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by April 20, 2021. On April 14, 2021, claimant filed a timely response to the appellant questionnaire. On June 18, 2021, the Office of Administrative Hearings (OAH) mailed a letter stating that Order No. 21-UI-164218 was vacated and that a new hearing would be scheduled to determine whether claimant had good cause to file the late request for hearing and, if so, the merits of decision # 85405. On August 16, 2021, ALJ Micheletti conducted a hearing, and on August 24, 2021 issued Order No. 21-UI-173269, re-dismissing claimant's request for hearing as late without a showing of good cause, leaving decision # 85405 undisturbed. On September 2, 2021, claimant filed an application for review of Order No. 21-UI-173269 with the Employment Appeals Board (EAB).

**EVIDENTIARY MATTER:** EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence consists of claimant's response to the appellant questionnaire and attachments thereto, and has been marked as EAB Exhibit 1, and a copy provided to the parties with this decision. Any party that objects to our admitting EAB Exhibit 1 must submit such objection to this office in writing, setting forth the basis of the objection in writing, within ten days of our mailing this decision. OAR 471-041-0090(2). Unless such objection is received and sustained, the exhibit will remain in the record.

**FINDINGS OF FACT:** (1) On January 13, 2021, claimant notified her employer Amazon.com Services, Inc. that she was resigning effective that day and moving in with her family. EAB Exhibit 1 at 5.

(2) On January 15, 2021, claimant flew from Portland, Oregon to Merced, California to move in with her family. EAB Exhibit 1 at 6, 7. When claimant moved, she asked her former roommate in Portland to notify her of any important mail sent to her at the address. Claimant did not update her address with the Department at that time.

(3) On January 19, 2021, filed a weekly claim for benefits.<sup>1</sup> An adjudicator from the Department spoke to claimant, and claimant told the adjudicator that she had moved to Oregon City. Claimant did not give the adjudicator an updated address, but she noted that she had moved “north of downtown Portland.” Audio Record at 11:48. Claimant also told the adjudicator that while she had moved in with her parents two days prior, she had not moved in with them permanently. Audio Record at 11:54. The adjudicator also asked claimant the same questions that claimant had responded to on her weekly claims for benefits. Audio Record at 17:12.

(4) On January 25, 2021, claimant filed a weekly claim for benefits.<sup>2</sup> On January 27, 2021, the Department mailed decision # 85405 to claimant’s address on file with the Department. Decision # 85405 stated, “You have the right to appeal this decision if you do not believe it is correct. Your request for appeal must be received no later than February 16, 2021.” Exhibit 1 at 2.

(5) On March 6, 2021, claimant was notified by her former roommate that they had received decision # 85405 in the mail, which they “had just been letting . . . sit there.” EAB Exhibit 1 at 3; Audio Record at 17:43.

(6) On March 7, 2021, claimant filed a request for hearing on decision # 85405.

**CONCLUSIONS AND REASONS:** Claimant’s late request for hearing is dismissed.

ORS 657.269 provides that the Department’s decisions become final unless a party files a request for hearing within 20 days after the date the decision is mailed. ORS 657.875 provides that the 20-day deadline may be extended a “reasonable time” upon a showing of “good cause.” OAR 471-040-0010 (February 10, 2012) provides that “good cause” includes factors beyond an applicant’s reasonable control or an excusable mistake, and defines “reasonable time” as seven days after those factors ceased

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<sup>1</sup> EAB has taken notice of this fact, which is contained in Employment Department records. OAR 471-041-0090(1) (May 13, 2019). Any party that objects to our taking notice of this information must submit such objection to this office in writing, setting forth the basis of the objection in writing, within ten days of our mailing this decision. OAR 471-041-0090(2). Unless such objection is received and sustained, the noticed fact will remain in the record.

<sup>2</sup> EAB has taken notice of this fact, which is contained in Employment Department records. OAR 471-041-0090(1) (May 13, 2019). Any party that objects to our taking notice of this information must submit such objection to this office in writing, setting forth the basis of the objection in writing, within ten days of our mailing this decision. OAR 471-041-0090(2). Unless such objection is received and sustained, the noticed fact will remain in the record.

to exist. “Good cause” does not include, in relevant part, the failure to receive a document due to not notifying the Employment Department or Office of Administrative Hearings of an updated address while the person is claiming benefits or if the person knows, or reasonably should know, of a pending appeal. OAR 471-040-0010(1)(b)(A).

The request for hearing on decision # 85405 was due by February 16, 2021. Because claimant did not file her request for hearing until March 7, 2021, the request was late. At hearing, claimant testified that on January 13, 2021, she had moved to a piece of land owned by her friend which was located in Oregon City but had no physical address, and that she was not receiving mail anywhere at the time. Audio Record at 13:15–14:22. Claimant also testified that she moved to California around January 29, 2021 or February 1, 2021. Audio Record at 15:52. This testimony suggests that claimant had been staying on her friend’s land in Oregon City, without an updated address to provide to the Department, for a period of time that included the date that decision # 85405 was issued.

However, claimant’s response to the appellant questionnaire and the documents attached to the response show that claimant flew to California on January 15, 2021. These documents include an itinerary and boarding pass, both dated January 15, 2021. EAB Exhibit 1 at 6, 7. Claimant also stated in a letter dated April 13, 2021 and attached to the questionnaire response that she moved to California on January 15, 2021. EAB Exhibit 1 at 4. Claimant also told an adjudicator on January 19, 2021 that she had moved in with her parents two days prior. This evidence outweighs claimant’s testimony that she moved to California at the end of January or early February 2021. Instead, it is reasonable to conclude that, more likely than not, claimant had already moved in with her family in California prior to the issuance of decision # 85405, and that she therefore already had a valid address at which she could receive mail prior to January 27, 2021. Claimant was claiming benefits that time, and because claimant had spoken to an adjudicator from the Department on January 19, 2021, claimant either knew or had reason to know that an issue had arisen with her eligibility for benefits. Therefore, while claimant’s roommate did not timely notify claimant of decision # 85405 when they received it in the mail, claimant’s failure to receive decision # 85405 was ultimately the result of her failure to notify the Department of an updated address while she was claiming benefits and knew, or reasonably should have known, of a pending appeal. For that reason, under OAR 471-040-0010(1)(b)(A), claimant did not have good cause to file the late request for hearing.

Therefore, claimant’s late request for hearing on decision # 85405 is subject to dismissal under ORS 657.875 and OAR 471-040-0010.

**DECISION:** Order No. 21-UI-173269 is affirmed.

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

**DATE of Service:** September 23, 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](https://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 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 ໄດ້ໂດຍປະຕິບັດຕາມຄໍາແນະນໍາທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄໍາຕັດສິນນີ້.

**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.

**Employment Appeals Board - 875 Union Street NE | Salem, OR 97311**  
 Phone: (503) 378-2077 | 1-800-734-6949 | Fax: (503) 378-2129 | TDD: 711  
[www.Oregon.gov/Employ/eab](http://www.Oregon.gov/Employ/eab)

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