

EMPLOYMENT APPEALS BOARD DECISION
2021-EAB-0758

Affirmed
Late Claim for Benefits Denied

PROCEDURAL HISTORY: On June 28, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant filed late claims for unemployment insurance benefits for the weeks including April 18, 2021 through May 29, 2021 (weeks 16-21 through 21-21) and was denied benefits for those weeks (decision # 120221). Claimant filed a timely request for hearing. On August 31, 2021, ALJ Frank conducted a hearing, and on September 2, 2021 issued Order No. 21-UI-173862, affirming decision # 120221. On September 22, 2021, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) On March 30, 2020, claimant filed an initial claim for unemployment insurance benefits with a first effective week of March 29, 2020 through April 4, 2020 (week 14-20).

(2) Prior to May 8, 2021, claimant did not attempt to restart her claim for benefits or claim weekly benefits for the weeks of April 18, 2021 through May 1, 2021 (weeks 16-21 through 17-21).

(3) On May 15, 2021, claimant attempted to use the Department's online claims system to restart her claim for benefits so that she could then file a continued claim for the week of May 2, 2021 through May 8, 2021 (week 18-21). Claimant spent four hours inputting the requested data into the system, but when she attempted to submit her request to restart her claim, the system timed out and deleted the data she had entered. Claimant ultimately did not restart her claim.

(4) On May 17, 2021, claimant again attempted to use the Department's online claims system to restart her claim so that she could then file a continued claim for the weeks including May 2, 2021 through May 15, 2021 (weeks 18-21 through 19-21). Claimant again spent four hours inputting the requested data, but this time repeatedly hit the "edit" button in an attempt to have the system save her data as she entered it. When claimant attempted to submit her request to restart her claim, the system again timed out and deleted the data she had entered. Claimant ultimately did not restart her claim.

(5) On May 22, 2021, claimant again attempted to use the Department's online claims system to restart her claim for benefits so that she could then file a continued claim for the weeks including May 2, 2021

through May 15, 2021 (weeks 18-21 through 19-21). Claimant spent six hours inputting the requested data into the system. When claimant attempted to submit her request to restart her claim, the system told her that she had successfully submitted her request and that she would receive written notice of a decision within 21 days.

(6) On June 7, 2021, claimant contacted the Department to seek assistance with filing her weekly claims for benefits. At that time, a Department representative assisted claimant in claiming benefits for the weeks including April 18, 2021 through May 29, 2021 (weeks 16-21 through 21-21). These are the weeks at issue. The Department did not pay claimant benefits for any of the weeks at issue.

CONCLUSIONS AND REASONS: Claimant filed late claims for benefits for weeks 16-21 through 21-21 and is not entitled to benefits for those weeks.

OAR 471-030-0045 (January 11, 2018) provides, in relevant part:

(1) As used in these rules, unless the context requires otherwise:

(a) “Continued Claim” means an application that certifies to the claimant’s completion of one or more weeks of unemployment and to the claimant’s status during these weeks. The certification may request benefits, waiting week credit, or non-compensable credit for such week or weeks. A continued claim must follow the first effective week of an initial, additional or reopen claim, or the claimant’s continued claim for the preceding week[.]

* * *

(4) A continued claim must be filed no later than seven days following the end of the week for which benefits, waiting week credit, or noncompensable credit, or any combination of the foregoing is claimed, unless:

(a) The continued claim is for the first effective week of the benefit year, in which case the week must be claimed no later than 13 days following the end of the week for which waiting week credit is claimed[.]

* * *

None of the weeks at issue was the first effective week of claimant’s benefit year. Therefore, under OAR 471-030-0045(4), her continued claims for benefits for weeks 16-21, 17-21, 18-21, 19-21, 20-21 and 21-21 were due by May 1, 2021, May 8, 2021, May 15, 2021, May 22, 2021, May 29, 2021, and June 5, 2021, respectively.

The record shows that claimant made, at the very least, an effort to file a claim for weeks 18-21 through 19-21 by the timely filing deadline, but that she was prevented from doing so by the Department’s online claims system. However, OAR 471-030-0045(4) contains no good-cause exception for failing to file a timely continued claim. Therefore, because she filed late claims for the weeks at issue, claimant is not entitled to benefits for those weeks.

DECISION: Order No. 21-UI-173862 is affirmed.

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

DATE of Service: October 26, 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 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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