

EMPLOYMENT APPEALS BOARD DECISION
2021-EAB-0761-R

*Request for Reconsideration Dismissed ~ EAB Decision 2021-EAB-0762 and Order No. 21-UI-172840
Remain Undisturbed*

*Request for Reconsideration Dismissed ~ EAB Decision 2021-EAB-0763 and Order No. 21-UI-172837
Remain Undisturbed*

Request for Reconsideration Allowed ~ EAB Decision 2021-EAB-0761 Adhered to on Reconsideration

PROCEDURAL HISTORY: On June 26, 2020, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer suspended claimant for misconduct connected with work, disqualifying claimant from receiving unemployment insurance benefits effective March 8, 2020 (decision # 112052). On July 9, 2020, the Department served notice of an administrative decision, based in part on decision # 112052, concluding that claimant willfully made a misrepresentation and failed to report a material fact to obtain unemployment insurance benefits, and assessing a \$1,208.00 overpayment of regular benefits, a \$4,800.00 overpayment of Federal Pandemic Unemployment Compensation (FPUC), a \$362.40 monetary penalty, and 12 penalty weeks. On July 16, 2020, decision # 112052 became final without claimant having filed a request for hearing. On July 29, 2020, the July 9, 2020 overpayment decision became final without claimant having filed a request for hearing. On February 19, 2021, the Department served notice of an administrative decision concluding that claimant was not able to work from April 12, 2020 through April 18, 2020 (week 16-20) and was therefore not eligible to receive benefits for that week (decision # 123207). On March 11, 2021, decision # 123207 became final without claimant having filed a request for hearing.

On August 5, 2021, claimant filed late requests for hearing on decision # 112052, the July 9, 2020 overpayment decision, and decision # 123207. ALJ Kangas reviewed claimant's hearing requests, and on August 18, 2021, issued Orders No. 21-UI-172840, 21-UI-172837, and 21-UI-172818, dismissing claimant's requests for hearing on decision # 112052, the July 9, 2020 overpayment decision, and decision # 123207 as late, subject to claimant's right to renew the requests by responding to appellant questionnaires by September 1, 2021. On September 7, 2021, Orders No. 21-UI-172840, 21-UI-172837, and 21-UI-172818 became final without claimant having responded to the appellant questionnaires or filed applications for review of the orders with the Employment Appeals Board (EAB). On September 11, 2021, claimant filed late applications for review of Orders No. 21-UI-172840, 21-UI-172837, and 21-UI-172818 with EAB.

EAB consolidated its review of Orders No. 21-UI-172840, 21-UI-172837, and 21-UI-172818 pursuant to OAR 471-041-0095 (October 29, 2006), and on October 4, 2021, issued in triplicate EAB Decisions 2021-EAB-0762, 2021-EAB-0763, and 2021-EAB-0761, which dismissed claimant's late applications for review without prejudice. On October 14, 2021, claimant filed timely requests for reconsideration of EAB Decisions 2021-EAB-0762, 2021-EAB-0763, and 2021-EAB-0761. This decision is issued pursuant to EAB's authority under ORS 657.290(3), EAB's review remains consolidated pursuant to OAR 471-041-0095, and for case-tracking purposes, this decision is being issued in triplicate (EAB Decisions 2021-EAB-0762-R, 2021-EAB-0763-R, and 2021-EAB-0761-R).

CONCLUSIONS AND REASONS: Claimant's requests for reconsideration as to EAB Decisions 2021-EAB-0762 and 2021-EAB-0763 are dismissed. Claimant's request for reconsideration as to EAB Decision 2021-EAB-0761 is allowed and EAB Decision 2021-EAB-0761 is adhered to on reconsideration.

ORS 657.290(3) authorizes the Employment Appeals Board (EAB) to reconsider any previous decision of the EAB, 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 includes a statement that a copy was provided to the other parties, and is filed on or before the 20th day after the decision sought to be reconsidered was mailed. OAR 471-041-0145(2) (May 13, 2019).

On October 14, 2021, claimant filed requests for reconsideration of 2021-EAB-0762, 2021-EAB-0763, and 2021-EAB-0761 with EAB, which were timely because they were filed before the 20th day after the decisions sought to be reconsidered were mailed. However, claimant's requests for reconsideration included no statement that a copy was provided to the other parties. Other parties were party to 2021-EAB-0762 and 2021-EAB-0763. The reconsideration requests are therefore dismissed for failure to serve the other parties as to 2021-EAB-0762 and 2021-EAB-0763.

Claimant's reconsideration request as to 2021-EAB-0761 was timely filed and no other party was party to that decision. For that reason, claimant's request for reconsideration as to 2021-EAB-0761 is allowed. However, 2021-EAB-0761, which dismissed claimant's late application for review without prejudice, is adhered to on reconsideration. 2021-EAB-0761 is adhered to on reconsideration because claimant did not provide information in their request for reconsideration sufficient to establish good cause to extend the deadline for filing their application for review in that case. Claimant stated in their request for reconsideration that they were unable to timely file the application for review "due to distress from PTSD and a lack of understanding." Request for Reconsideration at 1. Because the request does not contain sufficient information about the nature of claimant's PTSD condition or how the condition may have prevented claimant from filing by the deadline, claimant did not show good cause for extending the deadline for filing their late application for review.

Accordingly, EAB Decisions 2021-EAB-0762, 2021-EAB-0763 remain undisturbed, and 2021-EAB-0761 is adhered to on reconsideration. As such, EAB will take no further action with regard to these matters.

DECISION: The requests for reconsideration for EAB Decisions 2021-EAB-0762 and 2021-EAB-0763 are dismissed. EAB Decisions 2021-EAB-0762 and 2021-EAB-0763 and Orders No. 21-UI-172840 and 21-UI-172837 remain undisturbed. The request for reconsideration for EAB Decision 2021-EAB-0761 is allowed and EAB Decision 2021-EAB-0761 is adhered to on reconsideration.

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

DATE of Service: October 29, 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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