

EMPLOYMENT APPEALS BOARD DECISION
2021-EAB-0968

Affirmed
Ineligible Weeks 37-21 through 39-21

PROCEDURAL HISTORY: On October 1, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant had failed to register for work in accordance with the Department's rules and therefore was denied unemployment insurance benefits for the week of September 12, 2021 through September 18, 2021 (week 37-21) and until the reason for the denial had ended. Claimant filed a timely request for hearing. On November 4, 2021, ALJ Janzen conducted a hearing, and on November 5, 2021 issued Order No. 21-UI-179155, modifying the October 1, 2021 administrative decision by concluding that claimant had failed to register for work in accordance with the Department's rules and therefore was not entitled to unemployment insurance benefits for the weeks from September 12, 2021 through October 2, 2021 (weeks 37-21 through 39-21). On November 16, 2021, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) On August 31, 2021, claimant filed an initial claim for unemployment insurance benefits. Claimant subsequently claimed benefits for the weeks including September 12, 2021 through October 2, 2021 (weeks 37-21 through 39-21). These are the weeks at issue. The Department did not pay claimant benefits for any of the weeks at issue.

(2) On September 2, 2021, the Department mailed claimant a notice that he was required to register for work by providing basic information and completing a Job Seeker Profile in iMatchSkills. The notice indicated that claimant was required to complete these tasks by September 17, 2021. Claimant received the notice.

(3) On September 11, 2021, the Department called claimant to discuss a work separation. During that call, the Department representative advised claimant, "do not do the work source [i.e., register for work] as we're figuring it out with your employer." Transcript at 11. Four days later, on September 15, 2021, a Department representative called claimant back and advised him that he should at that point register for work.

(4) On September 20, 2021 and September 27, 2021, the Department mailed claimant letters notifying him that he had not yet completed the registration process.

(5) On October, 4, 2021, claimant completed the registration process.

CONCLUSIONS AND REASONS: Claimant did not register for work in accordance with the Department's rules and therefore was not entitled to benefits for the weeks including September 12, 2021 through October 2, 2021 (weeks 37-21 and 39-21).

ORS 657.155(1)(a) states that an unemployed individual is eligible to receive benefits only if the individual has registered for work and thereafter continued to report at an employment office in accordance with Department rules. ORS 657.159 states that to satisfy the registration requirement of ORS 657.155(1) an individual shall submit such information regarding the individual's job qualifications, training and experience as the Department requests.

OAR 471-030-0035 (January 11, 2018) states in relevant part:

(1) A claimant may fulfill the "registered for work" requirements of ORS 657.155(1)(a) by completion of such processes as directed by the Director in order to create a full registration for work.

(2) "Full registration for work" as used in this rule, means providing information regarding the individual's job qualifications, skills, training and experience as the Director or an authorized representative of the Director deems necessary to carry out job placement services for the individual.

* * *

OAR 471-020-0020 (August 8, 2004) states in relevant part:

(1)(a) Except for individuals identified in OAR 471-020-0021, all unemployment insurance claimants shall submit such information as may be required by the Oregon Employment Department to carry out job placement services for the individual including, but not limited to, the individual's job qualifications, training and experience. Such information shall be entered into the Business & Employment Services online job match system concurrent with, or as soon as possible following, the filing of an initial claim for unemployment insurance benefits. Entry of this information shall constitute enrollment.

* * *

The Department denied claimant benefits for the weeks at issue because he failed to register for work by the September 17, 2021 deadline as required under ORS 657.155(1)(a), ORS 657.159, and associated administrative rules. At hearing, claimant testified that he while he received the September 2, 2021 notice that he was required to register, the Department advised him on September 11, 2021 not to do so yet while they resolved an issue with his claim. The order under review disregarded claimant's account based on the testimony of the Department's witness, who

stated that the Department had no record that any of their representatives had ever so advised claimant. Order No. 21-UI-179155 at 4; Transcript at 23. However, the Department's witness did not testify that the conversation did not occur—only that the Department had no record of it. Thus, the record supports the conclusion that claimant's testimony was credible, and the facts in this decision have been found accordingly.

Per claimant's testimony, however, while the Department advised claimant on September 11, 2021 not to complete the registration, the Department also advised him four days later that he *should* complete the process. Four days after September 11, 2021 was September 15, 2021, which was the Wednesday of week 37-21. Claimant therefore had notice, prior to the end of the first week at issue, that he was required to complete the process. Claimant nevertheless did not complete it until October 4, 2021. Therefore, claimant did not follow the Department's rules, and is not entitled to benefits for the weeks at issue.

DECISION: Order No. 21-UI-179155 is affirmed.

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

DATE of Service: December 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. 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 desisyong ito.

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 ໂດຍປະຕິບັດຕາມຄໍາແນະນໍາທີ່ບອກໄວ້ຢູ່ຕອນຫ້າຍຂອງຄໍາຕັດສິນນີ້.

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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