

EMPLOYMENT APPEALS BOARD DECISION
2021-EAB-1004

Order No. 21-UI-179111 Affirmed ~ Ineligible Weeks 24-21 through 31-21
Order No. 21-UI-179129 Affirmed ~ Ineligible Weeks 32-21 through 34-21

PROCEDURAL HISTORY: On September 29, 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 June 13, 2021 through August 7, 2021 (weeks 24-21 through 31-21) and therefore was denied benefits for those weeks (decision # 143825). Also on September 29, 2021, the Department served notice of an administrative decision concluding that claimant filed late claims for benefits for the weeks including August 8, 2021 through August 28, 2021 (weeks 32-21 through 34-21) and therefore was denied benefits for those weeks (decision # 71941¹). Claimant filed timely requests for hearing on decisions # 143825 and 71941. On November 2, 2021, ALJ Roberts conducted a consolidated hearing on decisions # 143825 and 71941, and on November 5, 2021 issued Orders No. 21-UI-179111 and 21-UI-179129, affirming decisions # 143825 and 71941, respectively. On November 24, 2021, claimant filed applications for review of Orders No. 21-UI-179111 and 21-UI-179129 with the Employment Appeals Board (EAB).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 21-UI-179111 and 21-UI-179129. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2021-EAB-1005 and 2021-EAB-1004).

WRITTEN ARGUMENT: EAB considered claimant's written argument when reaching this decision.

In her argument, claimant asserted that her circumstances were similar to those at issue in EAB Decision 2016-EAB-0232, and that EAB should conclude that claimant had good cause for filing late claims for benefits in accordance with that decision. Claimant's Written Argument at 1. Claimant's argument is not persuasive. In relevant part, EAB Decision 2016-EAB-0232 concluded that the claimant in that case had good cause to file late claims for benefits because she had been "prevented from filing timely continued claims for benefits from week 24-09 through 35-10 by factors or circumstances beyond her reasonable

¹ Decision # 71941 amended decision # 144047, also issued on September 29, 2021, which had concluded that claimant had filed late claims for benefits for the weeks including August 8, 2021 through September 4, 2021 (weeks 32-21 through 35-21). Claimant's request for hearing on decision # 144047 was construed as a request for hearing on decision # 71941.

control,” and thereafter filed the late claims within seven days of the date on which the factors that prevented her timely filing ceased to exist. 2016-EAB-0232 at 8. That conclusion, however, was premised upon a previous version of OAR 471-030-0045, effective during the weeks at issue in that case, which both allowed a continued claim to be filed within 24 days following the end of the week for which benefits was sought *and* allowed for a “good cause” exception for failing to file within that 24-day period. OAR 471-030-0045(4), (6) (effective December 14, 2003 through August 31, 2013).

By contrast, the version of the administrative rule that was effective at the time that claimant filed her late claims for benefits in 2021 required that continued claims for benefits be filed no later than seven days following the end of the week for which benefits were claimed, and did not contain a “good cause” exception for failing to file within that seven-day period. OAR 471-030-0045(4) (effective January 11, 2018). In other words, even if claimant had shown that she met the requirements of the “good cause” exception under the version of OAR 471-030-0045 that was effective during the weeks at issue in 2016-EAB-0232, the “good cause” exception would not apply to claimant’s case because the rule had since been amended to remove the exception. Because the rule applicable at the time that claimant filed her late claims for benefits did not contain *any* exception for filing late claims, the orders under review correctly concluded that claimant was not eligible for benefits for the weeks she claimed late.

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

DECISION: Orders No. 21-UI-179111 and 21-UI-179129 are affirmed.

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

DATE of Service: December 30, 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 ໂດຍປະຕິບັດຕາມຄໍາແນະນໍາທີ່ບອກໄວ້ຢູ່ຕອນຫ້າຍຂອງຄໍາຕັດສິນນີ້.

Arabic

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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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