

**EMPLOYMENT APPEALS BOARD DECISION**  
**2022-EAB-0261**

*Late Applications for Review Dismissed*

**PROCEDURAL HISTORY:** On February 5, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was not able to work and was therefore not eligible to receive unemployment insurance benefits for the weeks including April 26, 2020 through July 18, 2020 (weeks 18-20 through 29-20) (decision # 80033). On February 25, 2021, decision # 80033 became final without claimant having filed a timely request for hearing. On July 30, 2021, the Department served notice of an administrative decision concluding that claimant failed to register for work in accordance with the Department's rules and therefore was ineligible to receive unemployment insurance benefits for the week of July 11, 2021 through July 17, 2021 (week 28-21), and until the reason for the denial had ended. On August 19, 2021, the July 30, 2021 administrative decision became final without claimant having filed a timely request for hearing. On September 15, 2021, claimant filed late requests for hearing on decision # 80033 and on the July 30, 2021 administrative decision. ALJ Kangas considered claimant's request, and on November 2, 2021 issued Order No. 21-UI-178799, dismissing claimant's request for hearing on decision # 80033 as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by November 16, 2021. Also on November 2, 2021, ALJ Kangas issued Order No. 21-UI-178794, dismissing claimant's request for hearing on the July 30, 2021 administrative decision as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by November 16, 2021.

On November 22, 2021, Orders No. 21-UI-178799 and 21-UI-178794 became final without claimant having filed a response to the appellant questionnaire or an application for review with the Employment Appeals Board (EAB). On December 22, 2021, claimant filed late responses to the appellant questionnaires. On December 27, 2021, ALJ Kangas mailed a letter to claimant stating that because claimant's response to the appellant questionnaire was late, it would not be considered, another order would not be issued, and Order No. 21-UI-178799 remained in effect. Also on December 27, 2021, ALJ Kangas mailed a letter to claimant stating that because claimant's response to the appellant questionnaire was late, it would not be considered, another order would be not issued, and Order No. 21-UI-178794 remained in effect. On February 23, 2022, claimant filed late applications for review of Orders No. 21-UI-178799 and 21-UI-178794 with EAB.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 21-UI-178799 and 21-UI-178794. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2022-EAB-0261 and 2022-EAB-0260).

**EVIDENTIARY MATTER:** EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence is the written statement claimant provided with their applications for review, 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) Order No. 21-UI-178799, mailed to claimant on November 2, 2021, stated, “You may appeal this decision by filing the attached form Application for Review with the Employment Appeals Board within 20 days of the date that this decision is mailed.” Order No. 21-UI-178799 at 2. Order No. 21-UI-178799 also stated on its Certificate of Mailing, “Any party may appeal this Order by filing a Request for Review with the Employment Appeals Board no later than November 22, 2021.”

(2) Order No. 21-UI-178794, mailed to claimant on November 2, 2021, stated, “You may appeal this decision by filing the attached form Application for Review with the Employment Appeals Board within 20 days of the date that this decision is mailed.” Order No. 21-UI-178794 at 2. Order No. 21-UI-178794 also stated on its Certificate of Mailing, “Any party may appeal this Order by filing a Request for Review with the Employment Appeals Board no later than November 22, 2021.”

**CONCLUSIONS AND REASONS:** Claimant’s late applications for review of Orders No. 21-UI-178799 and 21-UI-178794 are dismissed.

An application for review is timely if it is filed within 20 days of the date that the Office of Administrative Hearings (OAH) mailed the order for which review is sought. ORS 657.270(6); OAR 471-041-0070(1) (May 13, 2019). The 20-day filing period may be extended a “reasonable time” upon a showing of “good cause.” ORS 657.875; OAR 471-041-0070(2). “Good cause” means that factors or circumstances beyond the applicant’s reasonable control prevented timely filing. OAR 471-041-0070(2)(a). A “reasonable time” is seven days after the circumstances that prevented the timely filing ceased to exist. OAR 471-041-0070(2)(b). A late application for review will be dismissed unless it includes a written statement describing the circumstances that prevented a timely filing. OAR 471-041-0070(3).

The applications for review of Orders No. 21-UI-178799 and 21-UI-178794 were due November 22, 2021. Because claimant did not file their applications for review until February 23, 2022, the applications for review were late. Claimant provided a written statement with the applications for review. In it, claimant explained that they are 72-years old and English is their second language, which causes them to rely on their daughter for reading and writing and to file paperwork. EAB Exhibit 1 at 1. Claimant explained that his daughter was out of town at the time of the deadline to appeal Orders No. 21-UI-178799 and 21-UI-178794. EAB Exhibit 1 at 1. This set of circumstances is sufficient to show that factors beyond claimant’s reasonable control prevented them from filing by the November 22, 2021 deadline. However, claimant stated in their written statement that their daughter returned and was

available to help after the November 22, 2021 filing deadline, and that the circumstance that prevented a timely filing ceased to exist on November 23, 2021. EAB Exhibit 1 at 1. The deadline to file applications for review in both cases was therefore extended to November 30, 2021, which is the seven-day “reasonable time” from November 23, 2021 when the factor that prevented timely filing ceased to exist. Claimant filed their applications for review on February 23, 2022, after the seven-day “reasonable time” period concluded. Accordingly, claimant did not file their late applications for review within a reasonable time, and claimant’s late applications for review are dismissed.

**DECISION:** The applications for review filed February 23, 2022 are dismissed. Orders No. 21-UI-178799 and 21-UI-178794 remain undisturbed.

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

**DATE of Service:** April 6, 2022

**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.

**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 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 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.

**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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El Departamento de Empleo de Oregon es un programa que respeta la igualdad de oportunidades. Disponemos de servicios o ayudas auxiliares, formatos alternos y asistencia de idiomas para personas con discapacidades o conocimiento limitado del inglés, a pedido y sin costo.