

EMPLOYMENT APPEALS BOARD DECISION
2022-EAB-0327

Affirmed
Ineligible Weeks 02-22 through 04-22

PROCEDURAL HISTORY: On January 27, 2022, the Oregon Employment Department (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 January 9, 2022 through January 15, 2022 (week 02-22) and until the reason for the denial had ended. Claimant filed a timely request for hearing. On February 28, 2022, ALJ Murdock conducted a hearing, and on March 1, 2022 issued Order No. 22-UI-187551, modifying the January 27, 2022 administrative decision by concluding that claimant was ineligible for benefits for the weeks including January 9, 2022 through January 29, 2022 (weeks 02-22 through 04-22) for the same reason. On March 10, 2022, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant's argument contained information that was not part of the hearing record, and did not show that factors or circumstances beyond claimant's reasonable control prevented him from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB considered only information received into evidence at the hearing when reaching this decision. EAB considered claimant's argument to the extent it was based on the record.

FINDINGS OF FACT: (1) On December 29, 2021, claimant filed an initial claim for unemployment insurance benefits. The online claims system provides applicants with an advisory instructing them that they must complete the iMatchSkills registration process and the Department's welcome process in order to be eligible for benefits. Claimant did not see this advisory.

(2) On December 30, 2021, the Department mailed a letter to claimant advising him that he needed to contact his local WorkSource office by January 13, 2022 in order to schedule an appointment to complete the welcome process to be eligible for benefits. Claimant received the Department's letter.

(3) On or about January 12, 2022, claimant was temporarily required to leave his home due to a court order. Claimant's home was where he received his mail. Claimant did not provide the Department with a new mailing address because he was unsure how long he would be away from his home.

(4) On January 19, 2022, the Department mailed claimant a letter informing him that he had not been paid benefits due to his failure to complete the welcome process prior to January 13, 2022. Claimant received the Department's letter.

(5) On or about January 22, 2022, claimant was allowed to return to his home.

(6) On January 25, 2022, the Department mailed claimant a letter informing him that he had not been paid benefits due to his failure to complete the welcome process prior to January 13, 2022. Claimant received the Department's letter.

(7) On January 27, 2022, the Department issued and mailed the January 27, 2022 administrative decision to claimant.

(8) On January 28, 2022, upon receipt of the January 27, 2022 administrative decision, claimant contacted the Department regarding the benefit weeks that had been denied. The Department advised claimant that he needed to complete both his iMatchSkills registration and the welcome process.

(9) On January 28, 2022, claimant completed his iMatchSkills registration.

(10) On February 1, 2022, claimant completed the welcome process.

(11) Claimant claimed benefits for the weeks including January 9, 2022 through January 29, 2022 (weeks 02-22 through 04-22). These are the weeks at issue. The Department did not pay claimant for any of the weeks at issue.¹

CONCLUSIONS AND REASONS: Claimant failed to register for work in accordance with the Department's rules prior to the weeks including January 9, 2022 through January 29, 2022 (weeks 02-22 through 04-22), and is ineligible for benefits for those weeks.

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.

¹ EAB has taken notice of this fact, which is contained in Employment Department records. OAR 471-041-0090(1) (May 13, 2019). Any party that objects to our taking notice of this information 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 noticed fact will remain in the record.

(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 471-020-0021,² 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.

* * *

Because the Department did not pay claimant benefits for the weeks at issue, it was claimant's burden to show that he was eligible for benefits for those weeks. *See Nichols v. Employment Division*, 24 Or App 195, 544 P2d 1068 (1976) (where the Department has paid benefits it has the burden to prove benefits should not have been paid; by logical extension of that principle, where benefits have not been paid claimant has the burden to prove that the Department should have paid benefits). Claimant did not meet that burden.

The record shows that the Department notified claimant that he needed to complete his iMatchSkills registration and the welcome process by January 13, 2022. Claimant received the Department's notifications, but did not complete both required steps until February 1, 2022, after the weeks at issue. Because claimant was not registered for work in accordance with the Department's rules during the weeks at issue, claimant was not eligible to receive benefits for those weeks under ORS 657.155(1)(a).

At hearing, claimant testified that although he received the Department's three notification letters, he was not sure when he received them; and that his ability to retrieve his mail and complete the registration requirements was impeded by his temporary court-ordered departure from his home. However, the record shows that claimant was allowed to return to his home on or about January 22, 2022. Although this return date would not have allowed him to timely complete the registration requirements to remain eligible for benefits for week 02-22, it would have provided him the ability to complete the registration process and remain eligible for benefits for week 04-22 (and, perhaps, week 03-22). However, claimant failed to complete his registration requirements until after the weeks at issue had passed. In any event, there is no "good cause" exception to the Department's registration requirements in the applicable administrative rules or statutes.

² Claimant did not assert, nor does the record otherwise show, that any of the exceptions to registration, as enumerated in OAR 471-020-0021, apply to his circumstances.

Although claimant also expressed disappointment at the fact that he was not advised by a representative from the Department that he needed to complete these registration requirements during phone call(s) he claimed had occurred prior to January 28, 2022, claimant failed to show that any representative from the Department made a false representation to him upon which he detrimentally relied. Transcript at 15. Therefore, because claimant did not complete both his iMatchSkills registration or the welcome process until February 1, 2022, claimant was ineligible for benefits for the weeks at issue.

DECISION: Order No. 22-UI-187551 is affirmed.

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

DATE of Service: May 19, 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. 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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