

EMPLOYMENT APPEALS BOARD DECISION
2022-EAB-0355

Affirmed
Late Requests for Hearing Dismissed

PROCEDURAL HISTORY: On September 15, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was not actively seeking work during the weeks including August 29, 2021 through September 11, 2021 (weeks 35-21 through 36-21) and was therefore ineligible to receive unemployment insurance benefits for those weeks (decision # 104800). On September 16, 2021, the Department served notice of an administrative decision concluding that claimant was not available for work during weeks 35-21 through 36-21, and was therefore ineligible to receive benefits during those weeks and until the reason for the denial had ended (decision # 94821). Also on September 16, 2021, the Department served notice of an administrative decision concluding that claimant was discharged for misconduct and therefore disqualified from receiving benefits effective August 22, 2021 (decision # 100626). On October 5, 2021, decision # 104800 became final without claimant having filed a request for hearing on that decision. On October 6, 2021, decisions # 94821 and 100626 became final without claimant having filed requests for hearing on those decisions. On November 22, 2021, claimant filed late requests for hearing on decisions # 104800, 94821, and 100626.

ALJ Kangas considered claimant's requests, and on November 30, 2021 issued Orders No. 21-UI-180735, 21-UI-180752, and 21-UI-180736, dismissing claimant's requests for hearing on decisions # 104800, 94821, and 100626, respectively, as late, subject to claimant's right to renew the requests by responding to an appellant questionnaire by December 14, 2021. On December 16, 2021, claimant filed timely applications for review of Orders No. 21-UI-180735, 21-UI-180752, and 21-UI-180736 with the Employment Appeals Board (EAB).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 21-UI-180735, 21-UI-180752, and 21-UI-180736. For case-tracking purposes, this decision is being issued in triplicate (EAB Decisions 2022-EAB-0356, 2022-EAB-0354, and 2022-EAB-0355).

FINDINGS OF FACT: (1) On September 15 2021, the Department mailed decision # 104800 to claimant's address on file with the Department. Decision # 104800 stated, "You have the right to appeal

this decision if you do not believe it is correct. Your request for appeal must be received no later than October 5, 2021.” Exhibit 1 at 2 (Order No. 21-UI-180753).

(2) On September 16, 2021, the Department mailed decision # 94821 to claimant’s address on file with the Department. Decision # 94821 stated, “You have the right to appeal this decision if you do not believe it is correct. Your request for appeal must be received no later than October 6, 2021.” Exhibit 1 at 2 (Order No. 21-UI-180752).

(3) On September 16, 2021, the Department mailed decision # 100626 to claimant’s address on file with the Department. Decision # 100626 stated, “You have the right to appeal this decision if you do not believe it is correct. Your request for appeal must be received no later than October 6, 2021.” Exhibit 1 at 2 (Order No. 21-UI-180736).

CONCLUSIONS AND REASONS: Claimant’s late requests for hearing are dismissed.

ORS 657.269 provides that the Department’s decisions become final unless a party files a request for hearing within 20 days after the date the decision is mailed. ORS 657.875 provides that the 20-day deadline may be extended a “reasonable time” upon a showing of “good cause.” OAR 471-040-0010 (February 10, 2012) provides that “good cause” includes factors beyond an applicant’s reasonable control or an excusable mistake, and defines “reasonable time” as seven days after those factors ceased to exist.

The request for hearing on decision # 104800 was due by October 5, 2021. The requests for hearing on decisions # 94821 and 100626 were due by October 6, 2021. Because claimant did not file their requests for hearing on any of the administrative decisions until November 22, 2021, the requests were late. Claimant did not provide information to explain why they filed the requests for hearing late. Therefore, the record does not support the conclusion that claimant filed the requests late due to either factors beyond their reasonable control or an excusable mistake, and claimant’s late requests for hearing on decisions # 104800, 94821, and 100626 are subject to dismissal under ORS 657.875 and OAR 471-040-0010.

DECISION: Orders No. 21-UI-180735, 21-UI-180752, and 21-UI-180736 are affirmed.

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

DATE of Service: March 23, 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 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 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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