

EMPLOYMENT APPEALS BOARD DECISION
2022-EAB-0615

Affirmed
Late Claims for Benefits Denied
Ineligible Weeks 06-22 through 08-22

PROCEDURAL HISTORY: On April 6, 2022, 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 February 6, 2022 through February 26, 2022 (weeks 06-22 through 08-22) and therefore was ineligible to receive benefits for those weeks (decision # 120712). Claimant filed a timely request for hearing. On May 3, 2022, ALJ Ramey conducted a hearing, and on May 10, 2022 issued Order No. 22-UI-193321, affirming decision # 120712. On May 30, 2022, claimant filed a timely application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant submitted written arguments on May 30, 2022 and June 2, 2022. Both written arguments make similar claims and therefore EAB will address them together. Claimant argues that his inability to timely file weekly claims for benefits for weeks 06-22 and 07-22¹ was due to the Department's failure to promptly process and approve his initial claim for regular unemployment insurance benefits. Claimant's June 2, 2022 Written Argument at 1. Due to the Department's failure in this regard, claimant argues the online claims system would not allow claimant to complete his attempts to file timely weekly claims for weeks 06-22 and 07-22, when he attempted to do so on February 14, 2022 and February 21, 2022, respectively. Claimant's June 2, 2022 Written Argument at 1-2. According to claimant, "If a more 'prompt' decision would have been made on the initial claim, then the errors would not have occurred in the filing of the weeks in question." Claimant's June 2, 2022 Written Argument at 2. Claimant acknowledged that he did not attempt to call the Department after his online filing attempts were unsuccessful because he "didn't think about that as an option." Claimant's June 2, 2022 Written Argument at 1.

Claimant's argument is without merit. ORS 657.155(1)(b) provides that an unemployed individual shall be eligible to receive benefits with respect to any week only if the individual has made a claim for benefits with respect to such week in accordance with the Department's regulations. *See also* ORS 657.260(1). OAR 471-030-0045(2)(January 11, 2018) requires a claimant "in order to obtain benefits"

¹ The record shows that claimant made no attempt to file a timely weekly claim for benefits for week 08-22.

for any given week to file a “continued claim” for that week.² A “[c]ontinued claim” is one that “certifies . . . the claimant’s status” during the week claimed. OAR 471-030-0045(1)(a). For a continued claim to be timely, an individual must file it no later than seven days following the end of the week for which benefits are claimed. OAR 471-030-0045(4). The individual may file a continued claim in person at any Employment Department office in Oregon, by mail, by fax, by internet, or by telephone.

Here, the record shows that claimant was aware that he had been unsuccessful in his attempts to timely file his weekly claims for benefits for weeks 06-22 and 07-22. Despite this knowledge, claimant did not attempt to contact the Department, by any of the available means, within the time period available to file a continued claim. In addition, under the current administrative rules, there is no good cause exception to the requirement that an individual file a continued claim within the time allowed for doing so. Accordingly, because claimant filed late claims for benefits for the weeks at issue, claimant is not eligible for unemployment insurance benefits for those weeks.

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

DECISION: Order No. 22-UI-193321 is affirmed.

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

DATE of Service: August 22, 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.

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.

² The State of Oregon Unemployment Insurance Claimant Handbook emphasizes that claimants should continue filing timely weekly claims, even in circumstances where the Department has stopped the payment of benefits to determine an individual’s eligibility, to ensure they are able to receive payment for the weeks claimed if the eligibility issue is resolved favorably for the individual. *See* Claimant Handbook at 12-13. EAB has taken notice of this fact, which a generally cognizable fact available in the Claimant Handbook. OAR 471-041-0090(1) (May 13, 2019). A copy of the information is available to the parties at https://www.oregon.gov/employ/unemployment/claimant_handbook/pages/default.aspx. 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.



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 ໄດ້ໂດຍປະຕິບັດຕາມຄໍາແນະນຳທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄໍາຕັດສິນນີ້.

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

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