

**EMPLOYMENT APPEALS BOARD DECISION**  
**2022-EAB-0671**

*Affirmed*  
*Late Request for Hearing Dismissed*

**PROCEDURAL HISTORY:** On December 10, 2021, 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 November 21, 2021 through November 27, 2021 (week 47-21) and until the reason for the denial had ended. On December 30, 2021, the December 10, 2021 administrative decision became final without claimant having filed a request for hearing. On February 3, 2022, claimant filed a late request for hearing on the December 10, 2021 administrative decision.

ALJ Kangas considered claimant's request, and on May 9, 2022 issued Order No. 22-UI-193202, dismissing claimant's request for hearing as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by May 23, 2022. On May 24, 2022, claimant filed a late response to the appellant questionnaire and a timely application for review of Order No. 22-UI-193202 with the Employment Appeals Board (EAB). On June 9, 2022, ALJ Kangas mailed a letter 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. 22-UI-193202 remained in effect. This matter comes before EAB based upon claimant's May 24, 2022 application for review of Order No. 22-UI-193202.

**EVIDENTIARY MATTER:** EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence is claimant's response to the appellant questionnaire, 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) On December 10, 2021, the Department mailed the December 10, 2021 administrative decision to claimant's address on file with the Department. The December 10, 2021 administrative decision 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 12/30/2021." Exhibit 1 at 1. Prior to

issuing the December 10, 2021 administrative decision, the Department had issued another administrative decision (“the prior administrative decision”) for which claimant timely requested a hearing. At the time claimant requested a hearing related to the prior administrative decision, they were unaware of the December 10, 2021 administrative decision. Exhibit 2 at 2; EAB Exhibit 1 at 1-2.

(2) At some point in December 2021, claimant received the December 10, 2021 administrative decision. EAB Exhibit 1 at 1.

(3) In January 2022, claimant appeared at a hearing to address the prior administrative decision which had denied claimant benefits. At the conclusion of that hearing, the prior administrative decision was reversed. At that time, claimant did not realize that even though the prior administrative decision was reversed, the December 10, 2021 administrative decision was a separate basis for denying them benefits. Claimant also did not realize that they would have to file a separate request for hearing in order to appeal the December 10, 2021 administrative decision. EAB Exhibit 1 at 1-2.

(4) On February 1, 2022, claimant received a letter from the Department “requesting information” related to the iMatchSkills registration process. EAB Exhibit 1 at 2.

(5) On February 3, 2022, claimant called the Department and learned that they were still not eligible for benefits because they had not completed the iMatchSkills and welcome processes. Claimant completed both requirements that day and requested a hearing on the December 10, 2021 administrative decision.

**CONCLUSIONS AND REASONS:** Claimant’s late request for hearing is 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.

On December 10, 2021, the Department mailed notice of the December 10, 2021 administrative decision to claimant’s address of record on file with the Department. The 20-day deadline for claimant to file a timely request for hearing on the December 10, 2021 administrative decision was December 30, 2021. Claimant did not file a request for hearing on the December 10, 2021 administrative decision until February 3, 2022. As such, claimant’s request for hearing was late.

In their appellant questionnaire response, claimant asserted that at the time they requested a hearing on a prior administrative decision denying them benefits, claimant was unaware of the existence of the December 10, 2021 administrative decision and was therefore unaware that the Department had issued “two different denials.” EAB Exhibit 1 at 1. Upon their subsequent receipt of the December 10, 2021 administrative decision at some point in December 2021,<sup>1</sup> claimant was placed on notice of the separate

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<sup>1</sup> In their appellant questionnaire response, claimant stated that they received the December 10, 2021 administrative decision in “Dec 2022”. EAB Exhibit 1 at 1 (Emphasis added). Because December 2022 has not yet occurred, and given the context in which the answer was provided, it is inferred that claimant’s reference to the year “2022” was a mistake and that claimant meant to reference the year “2021.”

basis for the denial of benefits created by the December 10, 2021 administrative decision. The record shows that claimant “misunderstood” that the separate basis for denial of benefits created by the December 10, 2021 administrative decision could only be challenged by a separate request for hearing on that decision. However, the record does not show that it was outside of claimant’s reasonable control to avoid this misunderstanding by carefully reading the December 10, 2021 administrative decision and, if they disagreed with it, requesting a hearing prior to the December 30, 2021 deadline. Likewise, to the extent the record suggests that claimant may have misunderstood the implications of the December 10, 2021 administrative decision after having received it, this does not constitute good cause to allow a late request for hearing. OAR 471-040-0010(1)(b)(B) (“Good cause [to allow a late request for hearing] does not include . . . [n]ot understanding the implications of a decision or notice when it is received.”).

Furthermore, while the record establishes that claimant’s failure to file a timely request for hearing was the result of a mistake on claimant’s part, it was not an “excusable mistake” within the meaning of the administrative rules. The record does not, for example, raise a due process issue, and fails to show that any mistake was the result of inadequate notice, reasonable reliance on another, or the inability to follow directions despite substantial efforts to comply.

Because claimant failed to show that factors beyond their reasonable control or an excusable mistake prevented them from filing a hearing request prior to the December 30, 2021 deadline, claimant failed to establish good cause to extend the filing deadline beyond that date. Accordingly, claimant’s late request for hearing on the December 10, 2021 administrative decision is dismissed.

**DECISION:** Order No. 22-UI-193202 is affirmed.

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

**DATE of Service: July 5, 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.

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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**

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.

**Employment Appeals Board - 875 Union Street NE | Salem, OR 97311**  
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