

**EMPLOYMENT APPEALS BOARD DECISION**  
**2022-EAB-1014**

*Affirmed*  
*Late Request for Hearing Dismissed*

**PROCEDURAL HISTORY:** On March 9, 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 for unemployment insurance benefits for the week of February 20, 2022 through February 26, 2022 (week 08-22) and until the reason for the denial had ended. On March 29, 2022, the March 9, 2022 administrative decision became final without claimant having filed a request for hearing. On April 12, 2022, claimant filed a late request for hearing. ALJ Kangas considered claimant's request, and on July 19, 2022 issued Order No. 22-UI-198582, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire within fourteen days from the date Order No. 22-UI-198582 was mailed to claimant. On August 5, 2022, claimant filed a late response to the appellant questionnaire and a timely application for review of Order No. 22-UI-198582 with the Employment Appeals Board (EAB). On October 3, 2022, ALJ Kangas mailed a letter stating that the Office of Administrative Hearings (OAH) would not consider claimant's questionnaire response or issue another order regarding this matter because the questionnaire response was late. This matter comes before EAB based upon claimant's August 5, 2022 application for review of Order No. 22-UI-198582.

**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 August 5, 2022 response to the appellant questionnaire, 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.

**FINDING OF FACT:** On March 9, 2022, the Department mailed the March 9, 2022 administrative decision to claimant's address on file with the Department. The March 9, 2022 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 03/29/2022. This decision DENIES benefits." Exhibit 1 at 1. The

March 9, 2022 administrative decision also stated, “If you do not understand this decision, contact the Unemployment Insurance Center . . . immediately.” Exhibit 1 at 2.

**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. Not understanding the implications of a decision or notice when it is received is not good cause for filing a late request for hearing. OAR 471-040-0010(1)(b)(B).

The request for hearing on the March 9, 2022 administrative decision was due by March 29, 2022. Because claimant did not file their request for hearing until April 12, 2022, the request was late. In their appellant questionnaire response, claimant stated that they received the March 9, 2022 administrative decision on March 15, 2022, and that they did not file the request for hearing until April 12, 2022 because they “didn’t understand what the denial meant” and “thought it was another of the weekly claims [claimant] had been receiving.” EAB Exhibit 1 at 3. However, to the extent that claimant failed to file the request for hearing by the deadline because they did not understand the implications of the March 9, 2022 administrative decision, they did not have good cause for their late request for hearing. Under OAR 471-040-0010(1)(b)(B), not understanding the implications of a decision when it is received is not good cause for filing a late request for hearing.

Claimant also stated in their questionnaire response that they believed they had good cause to file the late request for hearing due to their “inexperience with the process” and due to a “lack of information” from a Department representative claimant spoke to on “multiple occasions.” EAB Exhibit 1 at 3. However, claimant also stated that they “should have called as soon as [they] received the notice,” and that when they called the Department on one occasion because they were not receiving benefits, the Department representative explained that claimant could request a hearing regarding the March 9, 2022 administrative decision. EAB Exhibit 1 at 3. As to the “multiple occasions” referenced by claimant, claimant did not show that they asked the Department about the March 9, 2022 administrative decision when they spoke with the Department representative on the “multiple occasions” referred to in their questionnaire response, or that those conversations were before the March 29, 2022 deadline had passed. For these reasons, claimant has not shown that they were prevented from filing a timely request for hearing due to factors beyond their reasonable control.

Ultimately, claimant’s failure to file a timely request for hearing on the March 9, 2022 administrative decision was likely the result of a mistake on their part. However, claimant failed to show that it was an “excusable mistake” within the meaning of the administrative rules that, for example, raises a due process issue, or that 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 establish good cause for their late request for hearing on the March 9, 2022 administrative decision, their late request for hearing is dismissed.

**DECISION:** Order No. 22-UI-198582 is affirmed.

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

**DATE of Service: October 20, 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 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 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، می توانید 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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