

**EMPLOYMENT APPEALS BOARD DECISION**  
**2022-EAB-1027**

*Affirmed*  
*Request to Backdate Initial Claim Denied*

*Confirmada*  
*Solicitud de Antedatar el Reclamo Inicial Denegada*

**PROCEDURAL HISTORY:** On August 12, 2022, the Oregon Employment Department (the Department) served notice of an administrative decision denying claimant's request to backdate her initial claim to July 24, 2022, and concluding that claimant therefore was ineligible for benefits for the week of July 24 through 30, 2022 (week 30-22) (decision # 125518). Claimant filed a timely request for hearing. On September 27, 2022, ALJ Janzen conducted a hearing interpreted in Spanish, and on September 28, 2022 issued Order No. 22-UI-203713, affirming decision # 125518. On October 7, 2022, claimant filed an application for review with the Employment Appeals Board (EAB).

**HISTORIA PROCESAL:** *El 12 de agosto de 2022, el Departamento de Empleo de Oregón (el Departamento) envió notificación de una decisión administrativa denegando la solicitud de la reclamante para antedatar su reclamo inicial al 24 de julio de 2022, y concluyendo que por lo tanto, la reclamante no era elegible para recibir los beneficios para la semana del 24 al 30 de julio de 2022 (semana 30-22) (decisión 125518). La reclamante presentó una aplicación oportuna para una audiencia. El 27 de septiembre de 2022, el juez administrativo Janzen llevó a cabo una audiencia interpretada al español. El 28 de septiembre de 2022, el juez emitió la Orden Judicial No. 22-UI-203713, confirmando la decisión # 125518. El 7 de octubre de 2022, la reclamante archivó una aplicación para revisión de La Orden Judicial No. 22-UI-203713 con la Junta de Apelaciones de Empleo (EAB).*

**FINDINGS OF FACT:** (1) On July 31, 2022, claimant filed an initial claim for benefits. This initial claim was effective the week of July 31, 2022 through August 6, 2022 (week 31-22).

(2) On August 1, 2022, claimant filed a weekly claim for benefits for the week of July 24, 2022 through July 30, 2022 (week 30-22), and requested that her initial claim be backdated to July 24, 2022. The Department did not pay benefits for week 30-22, which is the week at issue.

**CONCLUSIONS AND REASONS:** Claimant filed a late claim for benefits for the week at issue and is not entitled to benefits for that week. *La reclamante presentó un reclamo tardío de beneficios para la semana en cuestión y no tiene derecho a los beneficios para esa semana.*

OAR 471-030-0040 (January 11, 2018)

(1) As used in these rules, unless the context requires otherwise:

\* \* \*

(b) An “initial claim” is a new claim that is a certification by a claimant completed as required by OAR 471-030-0025 to establish a benefit year or other eligibility period;

\* \* \*

(e) “Backdating” occurs when an authorized representative of the Employment Department corrects, adjusts, resets or otherwise changes the effective date of an initial, additional or reopened claim to reflect filing in a prior week. Backdating may occur based upon evidence of the individual's documented contact on the prior date with the Employment Department or with any other state Workforce agency, or as otherwise provided in this rule.

\* \* \*

(3) An initial, additional, or reopened claim must be filed prior to or during the first week or series of weeks for which benefits, waiting week credit, or noncompensable credit is claimed and prior to or during the first week of any subsequent series thereafter. An initial claim is effective the Sunday of the calendar week in which it is filed. An authorized representative of the Employment Department will backdate an additional or reopened claim to the calendar week immediately preceding the week in which the request to backdate was made when a claimant requests backdating of the additional or reopened claim.

\* \* \*

Because the Department did not pay claimant benefits for the week at issue, claimant bears the burden to establish by a preponderance of the evidence that benefits should have been paid. *See Nichols v. Employment Division*, 24 Or App 195, 544 P2d 1068 (1976).

Claimant has failed to establish that she filed her initial claim for benefits during the week at issue. Claimant offered testimony that she filed her initial claim on July 24, 2022, and the confirmation number she received when she filed her initial claim, as proof that she filed the claim on July 24, 2022. However, the Department’s witness testified that this confirmation number corresponded to claimant’s July 31, 2022 initial claim for benefits. The evidence on that issue is equally balanced, and claimant has not met her burden to show that she filed an initial claim prior to the one she filed on July 31, 2022. Because initial claims are effective the Sunday

of the calendar week they are filed, and OAR 471-030-0040(3) does not provide for the backdating of an initial claim, the effective week of claimant's July 31, 2022 initial claim was week 31-22. Because week 30-22 is before the first effective week of claimant's initial claim, claimant is not eligible for benefits for that week.

**DECISION:** Order No. 22-UI-203713 is affirmed. *La Orden de la Audiencia 22-UI-203713 queda confirmada.*

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

**DATE of Service: December 16, 2022 / 16 de diciembre de 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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***NOTA:*** *Usted puede apelar esta decisión presentando una solicitud de revisión judicial ante la Corte de Apelaciones de Oregon (Oregon Court of Appeals) dentro de los 30 días siguientes a la fecha de notificación indicada arriba. Vea ORS 657.282. Para obtener formularios e información, puede escribir a la Corte de Apelaciones de Oregon, Sección de Registros (Oregon Court of Appeals/Records Section), 1163 State Street, Salem, Oregon 97310 o visite el sitio web en [courts.oregon.gov](https://courts.oregon.gov). En este sitio web, hay información disponible en español.*

**Por favor, ayúdenos mejorar nuestros servicios completando un formulario de encuesta sobre nuestro servicio de atención al cliente.** Para llenar este formulario, puede visitar <https://www.surveygizmo.com/s3/5552642/EAB-Customer-Service-Survey>. Puede acceder a la encuesta usando una computadora, tableta, o teléfono inteligente. Si no puede llenar el formulario sobre el internet, puede comunicarse con nuestra oficina para una copia impresa de la encuesta.



# 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**

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**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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