

EMPLOYMENT APPEALS BOARD DECISION
2023-EAB-0008

Late Requests for Hearing Dismissed

PROCEDURAL HISTORY: On January 11, 2022, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was not available for work from December 12 through 18, 2021 (week 50-21) and was not eligible for unemployment insurance benefits for that week (decision # 82327). Also on January 11, 2022, the Department served notice of an administrative decision concluding that claimant was not available for work from December 19 through 25, 2021 (week 51-21) and was not eligible for benefits for that week (decision # 75453). On January 31, 2022, decisions # 82327 and 75453 became final without claimant having filed a request for hearing.

On July 26, 2022, the Department served notice of an administrative decision concluding that claimant was discharged for misconduct and was disqualified from receiving benefits effective June 19, 2022 (decision # 81806). On August 15, 2022, decision # 81806 became final without claimant having filed a request for hearing. On September 2, 2022, the Department served notice of an administrative decision based in part on decision # 81806,¹ concluding that claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits, and assessing a \$8,114.00 overpayment, a \$2,434.20 monetary penalty, and a 49-week penalty disqualification from future benefits (decision #194149). On September 22, 2022, decision # 194149 became final without claimant having filed a request for hearing.

On September 29, 2022, claimant filed late requests for hearing on decisions # 82327, 75453, 81806, and 194149. ALJ Kangas considered claimant's requests, and on October 6, 2022 issued Orders No. 22-UI-204459, 22-UI-204455, 22-UI-204456, and 22-UI-204460, dismissing the requests as late, subject to claimant's right to renew the requests by responding to an appellant questionnaire by October 20, 2022. On October 18, 2022, claimant filed a timely response to the appellant questionnaire. ALJ Kangas

¹ Decision # 194149 found that claimant "failed to report his work separation when reporting for benefits for the week ending June 25, 2022," but indicated on its schedule of adjustments that claimant was overpaid benefits for the week ending June 4, 2022 (week 22-22) due to "discharge/suspension." Order No. 22-UI-207076, Exhibit 1 at 3. As decision # 81806 found that claimant was disqualified from benefits effective June 19, 2022 (week 25-22), the assessment of an overpayment for week 22-22 on the basis of claimant's separation from work three weeks later may have been error. Claimant may wish to contact the Department directly to discuss this discrepancy.

reviewed claimant's response, and on November 10, 2022 issued Orders No. 22-UI-207077, 22-UI-207079, 22-UI-207078, and 22-UI-207076, re-dismissing claimant's late requests for hearing on decisions # 82327, 75453, 81806, and 194149, leaving the administrative decisions undisturbed. On November 23, 2022, claimant filed applications for review of Orders No. 22-UI-207077, 22-UI-207079, 22-UI-207078, and 22-UI-207076 with the Employment Appeals Board (EAB).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 22-UI-207077, 22-UI-207079, 22-UI-207078, and 22-UI-207076. For case-tracking purposes, this decision is being issued in quadruplicate (EAB Decisions 2023-EAB-0008, 2023-EAB-0010, 2023-EAB-0009, and 2022-EAB-1164).

EAB reviewed the hearing records. On *de novo* review and pursuant to ORS 657.275(2), the orders under review are **adopted**.

DECISION: Orders No. 22-UI-207077, 22-UI-207079, 22-UI-207078, and 22-UI-207076 are affirmed.

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

DATE of Service: January 12, 2023

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 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، می‌توانید با استفاده از دستور العمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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