

**EMPLOYMENT APPEALS BOARD DECISION**  
**2023-EAB-0168**

*Affirmed*  
*Late Request for Hearing Dismissed*

**PROCEDURAL HISTORY:** On June 30, 2021, 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 January 24, 2021 through May 15, 2021 (weeks 04-21 through 19-21) and therefore was denied unemployment insurance benefits for those weeks (decision # 82701). On July 20, 2021, decision # 82701 became final without claimant having filed a request for hearing. On April 24, 2022, claimant filed a late request for hearing on decision # 82701. ALJ Kangas considered claimant's request, and on August 9, 2022 issued Order No. 22-UI-200067, dismissing claimant's request for hearing as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by August 23, 2022. On August 24, 2022, claimant filed a late response to the appellant questionnaire. On August 26, 2022, claimant filed a timely application for review of Order No. 22-UI-200067 with the Employment Appeals Board (EAB). On February 6, 2023, 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 26, 2022 application for review of Order No. 22-UI-200067.

**EVIDENTIARY MATTER:** EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence consists of a copy of claimant's response to the appellant questionnaire and attached documents, 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.

**FINDINGS OF FACT:** (1) On June 30, 2021, the Department mailed decision # 82701 to claimant's address on file with the Department. Decision # 82701 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 July 20, 2021." Exhibit 1 at 2.

(2) At the time that the Department issued decision # 82701, claimant was attending school in San Diego, California. Claimant's address of record at the time, to which the Department mailed decision # 82701, was their parents' home in Oregon. Claimant's father, mother, and sister were all separately claiming benefits on their own claims around that time. This resulted in the Department sending a large volume of mail for all four of the family members to the same address. Claimant was not immediately made aware of the administrative decision when it was delivered to their parents' home.

(3) When claimant eventually discovered the administrative decision, the deadline for filing a timely request for hearing had already passed. Claimant was "so frustrated and disappointed and worried about money that [they] just assumed that it was too late and there was nothing [they] could do." EAB Exhibit 1 at 4. Thereafter, claimant "had to leave for another country [to study abroad] and worry about school." EAB Exhibit 1 at 4. Claimant returned home from their study abroad at "the very end of 2021." EAB Exhibit 1 at 4. Claimant attempted, unsuccessfully, to contact the Department to request for hearing at that point.

(4) Later, claimant examined documents relating to their claim and believed that the denial of benefits in decision # 82701 was "unfair" compared to determinations made on their sister's claim. EAB Exhibit 1 at 4. As a result, claimant decided to file a request for hearing on decision # 82701.

**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.

The request for hearing on decision # 82701 was due by July 20, 2021. Because claimant did not file their request for hearing until April 24, 2022, the request was late. On a statement enclosed with their appellant questionnaire response, claimant indicated that they were unsure when they received decision # 82701, as it arrived at their parents' house while claimant was at school in San Diego. EAB Exhibit 1 at 3. Claimant also indicated that by the time they actually discovered the administrative decision, the appeal deadline had already passed, and they assumed that it was too late for them to pursue an appeal. EAB Exhibit 1 at 4. Given that claimant was not at home to receive a copy of the administrative decision, claimant may have failed to file a timely request for hearing due to factors beyond their reasonable control.

However, claimant has not shown that they filed their request for hearing within a reasonable time after those factors ceased. The factors beyond claimant's reasonable control ceased when claimant discovered the copy of decision # 82701 that had been delivered to their parents' home. While claimant did not state when that occurred, it can be reasonably inferred from the record that claimant discovered decision # 82701 more than seven days prior to when claimant filed their request for hearing. Claimant indicated in their written statement that, at the time they learned of decision # 82701, they were in the process of

preparing to leave for a period of studying abroad, which contributed to their reasons for not immediately filing a request for hearing when they discovered the administrative decision. EAB Exhibit 1 at 4. Claimant further stated that they eventually decided to file the request for hearing after having “return[ed] home again to address it [at] the very end of 2021.” EAB Exhibit 1 at 4. Given that decision # 82701 was issued in June 2021, it is reasonable to infer from claimant’s statements that they learned of the administrative decision before they left to study abroad for either or both of the summer or fall 2021 academic terms.

Thus, claimant more likely than not waited one or more academic terms after they initially learned of decision # 82701—significantly more than seven days—to attempt to file a request for hearing. Because claimant has not shown, by a preponderance of the evidence, that they filed their request for hearing within a reasonable time, claimant did not have good cause to file the late request for hearing.

Therefore, claimant’s late request for hearing on decision # 82701 is subject to dismissal under ORS 657.875 and OAR 471-040-0010.

**DECISION:** Order No. 22-UI-200067 is affirmed.

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

**DATE of Service:** February 8, 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](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، 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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