

EMPLOYMENT APPEALS BOARD DECISION
2023-EAB-0176

Affirmed
Late Request for Hearing Dismissed

PROCEDURAL HISTORY: On December 22, 2020, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit work without good cause and was disqualified from receiving benefits effective February 16, 2020 (decision # 135513). On January 11, 2021, decision # 135513 became final without claimant having requested a hearing. On April 14, 2022, the Department served notice of an administrative decision based in part on decision # 135513, concluding that claimant was overpaid \$1591 in unemployment insurance benefits, \$685 in Pandemic Emergency Unemployment Compensation (PEUC), and \$9,600 in Federal Pandemic Unemployment Compensation (FPUC) that claimant was required to repay to the Department (decision # 172148). On May 4, 2022, decision # 172148 became final without claimant having requested a hearing. On July 26, 2022, claimant filed a late request for hearing on decisions #135513 and # 172148. ALJ Kangas considered claimant's request, and on October 26, 2022, issued Orders No. 22-UI-205901 and 22-UI-205902, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by November 9, 2022. On November 14, 2022, claimant filed an application for review of Orders No. 22-UI-205901 and 22-UI-205902 with the Employment Appeals Board (EAB). On December 14, 2022, ALJ Kangas mailed letters to claimant stating that because claimant did not file a timely response to the appellant questionnaire, Orders No. 22-UI-205901 and 22-UI-205902 remained in effect. This matter comes before EAB based upon claimant's November 14, 2022 application for review of Orders No. 22-UI-205901 and 22-UI-205902.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 22-UI-205901 and 22-UI-205902. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2023-EAB-0176 and 2023-EAB-0177).

FINDINGS OF FACT: (1) On December 22, 2020, the Department mailed decision # 135513 to claimant's address of record. Decision # 135513 became final on January 11, 2021 without claimant having requested a hearing.

(2) On April 14, 2022, the Department mailed decision # 172148 to claimant's address of record. Decision # 172148 became final on May 4, 2022 without claimant having requested a hearing.

(3) On July 26, 2022, claimant requested a hearing on decisions # 135513 and 172148.

(4) Claimant did not submit a response to the appellant questionnaire that was mailed to them on October 26, 2022, and has provided no other information as to why their request for hearing on decision # 135513 and decision # 172148 was not timely filed.

CONCLUSIONS AND REASONS: Claimant’s late request for hearing on decisions # 135513 and 172148 are 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.

A request for hearing on decision # 135513 was due by January 11, 2021. A request for hearing on decision # 172148 was due by May 4, 2022. Because claimant did not file their request for hearing until July 26, 2022, the request was late. Claimant has not provided an explanation for why their request for hearing on decision # 135513 and decision # 172148 was not timely filed. The record does not otherwise demonstrate good cause for extending the deadline to timely request a hearing on either administrative decision. Therefore, the request for hearing on decision # 135513 and decision # 172148 is late without good cause and is dismissed.

DECISION: Orders No. 22-UI-205901 and 22-UI-205902 are affirmed.

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

DATE of Service: February 9, 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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