

EMPLOYMENT APPEALS BOARD DECISION
2023-EAB-0189

Affirmed
Late Request for Hearing Dismissed

PROCEDURAL HISTORY: On February 17, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant failed to provide information in accordance with the Department's rules and was ineligible for benefits from January 3, 2021 through January 9, 2021 (week 01-21) and until the reason for the denial had ended. On March 9, 2021, the February 17, 2021 administrative decision became final without claimant having requested a hearing. On April 19, 2022, claimant filed a late request for hearing on the February 17, 2021 administrative decision. ALJ Kangas considered claimant's request, and on August 17, 2022, issued Order No. 22-UI-200726, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by August 31, 2022. Claimant did not respond to the appellant questionnaire. On September 3, 2022, claimant filed a timely application for review of Order No. 22-UI-200726. On February 7, 2023, ALJ Kangas mailed a letter to claimant stating that because claimant did not file a timely response to the appellant questionnaire, Order No. 22-UI-200726 remained in effect. This matter comes before EAB based upon claimant's September 3, 2022 application for review of Order No. 22-UI-200726.

FINDINGS OF FACT: (1) On February 17, 2021, the Department mailed the administrative decision to claimant's address of record. The administrative decision of February 17, 2021 stated that, "Any appeal from this decision must be filed on or before MAR 09, 2021 to be timely." Exhibit 1 at 1. The administrative decision of February 17, 2021 became final on March 9, 2021, without claimant having requested a hearing.

(2) On April 19, 2022, claimant filed a request for hearing on the administrative decision of February 17, 2021. Exhibit 2 at 2.

(3) Claimant did not submit a response to the appellant questionnaire that was mailed to them on August 17, 2022 with Order No. 22-UI-200726.

CONCLUSIONS AND REASONS: Claimant's late request for hearing on the administrative decision of February 17, 2021 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.

A request for hearing on the administrative decision of February 17, 2021 was due by March 9, 2021. Because claimant did not file their request for hearing until April 19, 2022, the request was late. Claimant stated in their late request for hearing that the Department sent a letter to them on January 14, 2021, stating that they would not timely receive benefits for week 01-21. Exhibit 2 at 2, 3. However, claimant stated they did not receive and was unaware of the February 17, 2021 administrative decision, which denied benefits for week 01-21. Exhibit 2 at 2. If the failure to receive the administrative decision resulted from a factor outside of claimant's reasonable control, it may have constituted good cause to extend the timely filing deadline. However, the record does not contain sufficient evidence to conclude whether this was the result of a factor outside of claimant's reasonable control. The record also does not show when this factor ceased to exist and whether claimant filed the late request for hearing within a "reasonable time" thereafter. Claimant had the opportunity to supply this information on the appellant questionnaire, but did not submit a response. Accordingly, claimant has not shown good cause to extend the deadline for timely filing.

Therefore, the request for hearing on the February 17, 2021 administrative decision is late without good cause and is dismissed.

DECISION: Order No. 22-UI-200726 is affirmed.

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

DATE of Service: February 15, 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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