

EMPLOYMENT APPEALS BOARD DECISION
2023-EAB-0326

Application for Review Dismissed

PROCEDURAL HISTORY: On October 13, 2022, the Department served notice of an administrative decision concluding that claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits, and assessing an overpayment of \$1,102 in regular unemployment insurance (regular UI) benefits and \$2,400 in Federal Pandemic Unemployment Compensation (FPUC) benefits that claimant was required to repay to the Department, a \$700.40 monetary penalty, and a 26-week penalty disqualification from future benefits (decision # 193242). On November 2, 2022, decision # 193242 became final without claimant having filed a request for hearing. On November 14, 2022, the Department served notice of an administrative decision, based in part on decision # 193242, denying claimant's request for an overpayment waiver because claimant did not establish that repayment was against equity and good conscience (decision # 90809).

On November 28, 2022, claimant filed a late request for hearing on decision # 193242 and a timely request for hearing on decision # 90809. On January 26, 2023, ALJ Mott conducted a hearing on decision # 193242. On January 30, 2023 the Department amended decision # 90809 by adjusting the repayment balance owed and denying claimant's request for an overpayment waiver because claimant did not establish that repayment was against equity and good conscience (decision # 90440). On February 23, 2023, ALJ Mott conducted a hearing on decision # 90440. On February 27, 2023, ALJ Mott issued Order No. 23-UI-217235, concluding that claimant had made a timely request for a hearing on decision # 193242, and modifying decision # 193242 by concluding that claimant did not willfully make a misrepresentation or fail to report a material fact to obtain benefits, and therefore not assessing a

monetary penalty or disqualification from future benefits, but that claimant had received benefits to which he was not entitled, and assessing an overpayment of \$1,102 in regular UI benefits and \$2,400 in FPUC benefits that claimant was liable to repay to the Department. On February 27, 2023, ALJ Mott also issued Order No. 23-UI-217233, reversing decision # 90440 by concluding that claimant's request for waiver of the regular UI and FPUC benefits should be granted. On March 20, 2023, the Department filed applications for review of Orders 23-UI-217235 and 23-UI-217233 with the Employment Appeals Board (EAB). On April 13, 2023, the Department filed a request to withdraw the March 20, 2023 applications for review of Orders 23-UI-217235 and 23-UI-217233.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 23-UI-217235 and 23-UI-217233. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2023-EAB-0326 and 2023-EAB-0327).

FINDING OF FACT: (1) On April 13, 2023, the Department sent an email to EAB asking to withdraw their applications for review of Orders No. 23-UI-217235 and 23-UI-217233.

CONCLUSIONS AND REASONS: The Department's applications for review are dismissed.

OAR 471-041-0098 (October 29, 2006) provides that an applicant's written request to withdraw an application for review will be allowed unless the request is received after EAB's decision has been issued.

On April 13, 2023, EAB received a written request from the Department, by email, to withdraw the applications for review of Orders No. 23-UI-217235 and 23-UI-217233. EAB had not yet issued decisions on the applications for review. Under OAR 471-041-0098, the Department's request to withdraw the applications for review is allowed.

DECISION: The applications for review of Orders No. 23-UI-217235 and 23-UI-217233, filed March 20, 2023, are dismissed. Orders No. 23-UI-217235 and 23-UI-217233 remain undisturbed.

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

DATE of Service: April 20, 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 الاستئناف 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

Phone: (503) 378-2077 | 1-800-734-6949 | Fax: (503) 378-2129 | TDD: 711

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