

EMPLOYMENT APPEALS BOARD DECISION
2023-EAB-0373

Late Application for Review Dismissed
No Justiciable Controversy

PROCEDURAL HISTORY AND FINDINGS OF FACT: On October 8, 2020, the Department served notice of an administrative decision concluding that claimant quit working for Oregon Food Bank on March 19, 2020 without good cause (decision # 110118). On November 1, 2021, the Department served notice of an administrative decision based on decision # 110118, concluding that due to the Department's error, claimant was overpaid \$4,641 in Regular Unemployment Insurance (Regular UI) benefits to be deducted from any future benefits payable for five years, and \$6,000 in Federal Pandemic Insurance Compensation (FPUC) benefits that claimant was required to repay (decision # 111311). On November 2, 2021, the Department served notice of the administrative decision at issue based on decision # 110118, concluding that claimant was overpaid \$300 in Lost Wages Assistance (LWA) that they must repay (decision # 0548202). On November 12, 2021, claimant filed a late request for hearing on decision # 110118, and timely requests for hearing on decisions # 111311 and 0548202.¹

On December 10, 2021, the Office of Administrative Hearings (OAH) served notice of a hearing on decision # 0548202 scheduled for December 20, 2021. On December 20, 2021, claimant failed to appear at the hearing, and ALJ Meerdink issued Order No. 21-UI-182269, dismissing claimant's request for hearing on decision # 0548202 for failure to appear, leaving decision # 0548202 undisturbed. On January 5, 2022, claimant filed a timely request to reopen the December 20, 2021 hearing on decision # 0548202. On January 13, 2022, however, the Department issued an administrative decision canceling decision # 0548202 (decision # 151655).² On April 6, 2022, ALJ Kangas issued Order No. 22-UI-

¹ EAB has taken notice of the facts regarding decisions # 110118 and 111311, which are contained in Employment Department records. OAR 471-041-0090(1) (May 13, 2019). Any party that objects to our taking notice of this information 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 noticed facts will remain in the record.

² EAB has taken notice of this fact, which is contained in Employment Department records. OAR 471-041-0090(1) (May 13, 2019). Any party that objects to our taking notice of this information 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 noticed fact will remain in the record.

190628, denying claimant's request to reopen the December 20, 2021 hearing on decision # 0548202. On April 26, 2022, Order No. 22-UI-190628 became final without claimant having filed an application for review with the Employment Appeals Board (EAB).

Also on April 6, 2022, the Department issued another administrative decision concluding that claimant was overpaid \$300 in LWA benefits that they must repay (decision #0585090). On April 26, 2022, decision # 0585090 became final without claimant having filed a request for hearing on that decision. On January 10, 2023, the Department served notice of an administrative decision granting claimant's request for a waiver of the \$6,000 FPUC overpayment assessed in decision # 111311.³

On March 29, 2023, claimant filed a late application for review of Order No. 22-UI-190628 with EAB.

WRITTEN ARGUMENT: EAB Considered claimant's written argument in reaching this decision.

CONCLUSION AND REASONS: Claimant's late application of review of Order No. 22-UI-190628 presents no justiciable controversy and is dismissed.

On January 5, 2022, claimant filed a timely request to reopen the December 20, 2021 hearing on decision # 0548202. On January 13, 2022, however, the Department issued decision # 151655, which canceled decision # 0548202. Order 22-UI-190628, which denied claimant's January 5, 2022 request to reopen the December 20, 2021 hearing on decision # 0548202, therefore denied claimant's request to reopen a hearing on an administrative decision that had been canceled. Accordingly, there is no justiciable controversy before EAB based on claimant's March 29, 2023 application for review of Order 22-UI-190628. Because the case before EAB presents no justiciable controversy, claimant's March 29, 2023 application for review of Order No. 22-UI-190628 is dismissed.

On April 6, 2022, the Department issued decision #0585090, which, like decision # 0548202, concluded that claimant was overpaid \$300 in LWA benefits that they must repay. On April 26, 2022, decision # 0585090 became final without claimant having filed a request for hearing on that decision. This decision does not prevent claimant from filing a late request for hearing on decision # 0585090.

DECISION: The application for review filed on March 29, 2023 is dismissed.

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

DATE of Service: May 2, 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

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'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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