

EMPLOYMENT APPEALS BOARD DECISION
2023-EAB-0389

Late Application for Review Dismissed

PROCEDURAL HISTORY: On February 11, 2021, the Oregon Employment Department (the Department) served notice of a determination for Pandemic Unemployment Assistance (PUA) concluding that claimant was not entitled to PUA benefits effective February 2, 2020. On March 3, 2021, the PUA determination became final without claimant having filed a request for hearing.

On November 16, 2021, the Department served notice of an administrative decision concluding that claimant was unable to work from October 10 through 16, 2021 and was ineligible for benefits for that week and until the reason for the denial had ended (decision # 65233). On November 17, 2021, the Department served notice of an administrative decision concluding that claimant quit working for Prestige Care Inc. without good cause, and that claimant was disqualified from receiving benefits effective July 18, 2021 (decision # 92119). On December 6, 2021, decision # 65233 became final without claimant having filed a request for hearing. On December 7, 2021, decision # 92119 became final without claimant having filed a request for hearing.

On December 20, 2021, the Department served notice of an administrative decision denying claimant's request to backdate their claim to September 13, 2020, and concluding that claimant was denied benefits for the weeks from September 13 through November 7, 2020 (decision # 84928). Also on December 20, 2021, the Department served notice of an administrative decision denying claimant's request to backdate their claim to November 8, 2020, and concluding that claimant was denied benefits for the weeks from November 8, 2020 through January 2, 2021 (decision # 91920). Also on December 20, 2021, the Department served notice of an administrative decision denying claimant's request to backdate their claim to March 21, 2021, and concluding that claimant was denied benefits for the weeks from March 21 through April 17, 2021 (decision # 92823). On January 10, 2022, decisions # 84928, 91920 and 92823 became final without claimant having filed a request for hearing.

On April 7 and 8, 2022, claimant filed late requests for hearing on the February 11, 2021 PUA determination and decisions # 65233, 92119, 84928, 91920 and 92823. ALJ Kangas considered claimant's late requests for hearing, and on April 26, 2022 issued Order Nos. 22-UI-192231, 22-UI-192230, 22-UI-192229, 22-UI-192248, 22-UI-192233 and 22-UI-192227, dismissing the requests for hearings subject to claimant's right to renew the requests by responding to an appellant questionnaire by

May 10, 2022. On May 16, 2022, Orders No. 22-UI-192231, 22-UI-192230, 22-UI-192229, 22-UI-192248, 22-UI-192233 and 22-UI-192227 became final without claimant having responded to the appellant questionnaire or filed an application for review with the Employment Appeals Board (EAB).

On March 31, 2023, claimant filed a late application for review of Orders No. 22-UI-192231, 22-UI-192230, 22-UI-192229, 22-UI-192248, 22-UI-192233 and 22-UI-192227 with EAB. Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 22-UI-192231, 22-UI-192230, 22-UI-192229, 22-UI-192248, 22-UI-192233 and 22-UI-192227. For case-tracking purposes, this decision is being issued in sextuplicate (EAB Decisions 2023-EAB-0388, 2023-EAB-0387, 2023-EAB-0386, 2023-EAB-0390, 2023-EAB-0389 and 2023-EAB-0385).

EVIDENTIARY MATTER: EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence is claimant’s application for review and written statement, 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(s) will remain in the record.

FINDING OF FACT: Orders No. 22-UI-192231, 22-UI-192230, 22-UI-192229, 22-UI-192248, 22-UI-192233 and 22-UI-192227, mailed to claimant on April 26, 2022, stated, “You may appeal this decision by filing the attached form Application for Review with the Employment Appeals Board within 20 days of the date that this decision is mailed.” Orders No. 22-UI-192231, 22-UI-192230, 22-UI-192229, 22-UI-192248, 22-UI-192233 and 22-UI-192227 at 2. Orders No. 22-UI-192231, 22-UI-192230, 22-UI-192229, 22-UI-192233 and 22-UI-192227 also stated on their Certificates of Mailing, “Any party may appeal this Order by filing a Request for Review with the Employment Appeals Board no later than May 16, 2022.” Order No. 22-UI-192248 stated on its Certificate of Mailing, “Any appeal from this Order must be filed on or before May 16, 2022 to be timely.”

CONCLUSIONS AND REASONS: Claimant’s late application for review of Orders No. 22-UI-192231, 22-UI-192230, 22-UI-192229, 22-UI-192248, 22-UI-192233 and 22-UI-192227 is dismissed.

An application for review is timely if it is filed within 20 days of the date that the Office of Administrative Hearings (OAH) mailed the order for which review is sought. ORS 657.270(6); OAR 471-041-0070(1) (May 13, 2019). The 20-day filing period may be extended a “reasonable time” upon a showing of “good cause.” ORS 657.875; OAR 471-041-0070(2). “Good cause” means that factors or circumstances beyond the applicant’s reasonable control prevented timely filing. OAR 471-041-0070(2)(a). A “reasonable time” is seven days after the circumstances that prevented the timely filing ceased to exist. OAR 471-041-0070(2)(b). A late application for review will be dismissed unless it includes a written statement describing the circumstances that prevented a timely filing. OAR 471-041-0070(3).

The application for review of Orders No. 22-UI-192231, 22-UI-192230, 22-UI-192229, 22-UI-192248, 22-UI-192233 and 22-UI-192227 was due May 16, 2022. Because claimant did not file their application for review until March 31, 2023, the application for review was late. Claimant provided a written statement with the application for review. However, claimant’s written statement only described

circumstances that led claimant to file their late application for review. The written statement did not describe circumstances that prevented claimant from filing an application for review on time. Accordingly, claimant did not show good cause for the late application for review, and their late application for review is dismissed.

DECISION: The application for review of Orders No. 22-UI-192231, 22-UI-192230, 22-UI-192229, 22-UI-192248, 22-UI-192233 and 22-UI-192227 filed March 31, 2023 is dismissed. Orders No. 22-UI-192231, 22-UI-192230, 22-UI-192229, 22-UI-192248, 22-UI-192233 and 22-UI-192227 remain undisturbed.

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

DATE of Service: May 5, 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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