

EMPLOYMENT APPEALS BOARD DECISION
2023-EAB-0609-R

Requests for Reconsideration Dismissed

PROCEDURAL HISTORY AND FINDINGS OF FACT: On November 25, 2020, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged for misconduct and was disqualified from receiving benefits effective August 11, 2019 (decision # 140018). On December 15, 2020, decision # 140018 became final without claimant having filed a request for hearing. On December 9, 2021, the Department served notice of an administrative decision based in part on decision # 140018, concluding that claimant was overpaid \$1,500 in Lost Wages Assistance (LWA) benefits that he must repay (decision # 0561039). On December 29, 2021, decision # 0561039 became final without claimant having filed a request for hearing.

On February 24, 2022, claimant filed late requests for hearing on decisions # 140018 and 0561039. ALJ Kangas considered claimant's requests, and on May 24, 2022 issued Orders No. 22-UI-194462 and 22-UI-194463, dismissing the requests as late, subject to claimant's right to renew the requests by responding to appellant questionnaires by June 7, 2022. On June 13, 2022, Orders No. 22-UI-194462 and 22-UI-194463 became final without claimant having filed responses to the appellant questionnaire or applications for review with the Employment Appeals Board (EAB).

On August 12, 2022, the Department served notice of an administrative decision based in part on decision # 140018, concluding that claimant was overpaid \$4,550 in regular unemployment insurance (regular UI) and \$10,200 in Federal Pandemic Unemployment Compensation (FPUC) benefits that he must repay (decision # 105332). On September 1, 2022, decision # 105332 became final without claimant having filed a request for hearing. On October 12, 2022, claimant filed a late request for hearing on decision # 105332.

On October 17, 2022, claimant filed a late response to the appellant questionnaires for Orders No. 22-UI-194462 and 22-UI-194463. On November 2, 2022 and November 4, 2022, the Office of Administrative Hearings (OAH) mailed letters to the parties stating that Orders No. 22-UI-194462 and 22-UI-194463 were cancelled and that hearings would be scheduled to determine whether claimant late requests for hearings on decisions # 140018 and 0561039 should be allowed and, if so, the merits of those decisions. On November 4, 2022, OAH served notice that the hearing regarding decision # 140018 was scheduled for December 16, 2022. Also on November 4, 2022, OAH served notice of a hearing scheduled for December 16, 2022 to determine whether claimant's late request for hearing on decision # 105332 should be allowed and, if so, the merits of that decision, and that the hearing would be consolidated with the hearing regarding decision # 0561039.

On December 16, 2022, ALJ Mott conducted a hearing regarding decision # 140018, and on December 19, 2022 issued Order No. 22-UI-210300, dismissing claimant's request for hearing on decision # 140018 as late without good cause. Also on December 16, 2022, ALJ Mott conducted a hearing regarding decisions # 0561039 and 105332, and on December 19, 2022 issued Orders No. 22-UI-210303 and 22-UI-210304, allowing claimant's late requests for hearing on decisions # 0561039 and 105332 and affirming decisions # 0561039 and 105332. On January 9, 2023, Orders No. 22-UI-210300, 22-UI-210303, and 22-UI-210304 became final without claimant having filed applications for review with EAB. On February 2, 2023, claimant filed late applications for review of Orders No. 22-UI-210300, 22-UI-210303, and 22-UI-210304 with EAB.

On June 8, 2023, EAB issued EAB Decisions 2023-EAB-0609, 2023-EAB-0610, and 2023-EAB-0611, dismissing claimant's applications for review of Orders No. 22-UI-210300, 22-UI-210303, and 22-UI-210304 as late without good cause. On July 12, 2023, claimant filed requests for reconsideration of EAB Decisions 2023-EAB-0609, 2023-EAB-0610, and 2023-EAB-0611 with EAB. This decision is issued pursuant to EAB's authority under ORS 657.290(3).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of claimant's requests for reconsideration of EAB Decisions 2023-EAB-0609, 2023-EAB-0610, and 2023-EAB-0611. For case-tracking purposes, this decision is being issued in triplicate (EAB Decisions 2023-EAB-0609-R, 2023-EAB-0610-R, and 2023-EAB-0611-R).

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

CONCLUSIONS AND REASONS: Claimant's requests for reconsideration are dismissed.

ORS 657.290(3) authorizes the Employment Appeals Board to reconsider any previous decision of the Employment Appeals Board, including "the making of a new decision to the extent necessary and appropriate for the correction of previous error of fact or law." "Any party may request reconsideration to correct an error of material fact or law, or to explain any unexplained inconsistency with Employment Department rule, or officially stated Employment Department position, or prior Employment Department practice." OAR 471-041-0145(1) (May 13, 2019). The request is subject to dismissal unless it includes a statement that a copy was provided to the other parties, and is filed on or before the 20th day after the decision sought to be reconsidered was mailed. OAR 471-041-0145(2).

EAB Decisions 2023-EAB-0609, 2023-EAB-0610, and 2023-EAB-0611 were mailed on June 8, 2023. Pursuant to OAR 471-041-0145(2), the deadline to file a request for reconsideration of those decisions was June 28, 2023. Claimant's requests for reconsideration were filed on July 12, 2023. Accordingly, claimant's requests for reconsideration were not filed within 20 days of the mailing of EAB Decisions 2023-EAB-0609, 2023-EAB-0610, and 2023-EAB-0611, and therefore are dismissed.

DECISION: The requests for reconsideration filed July 12, 2023 are dismissed. EAB Decisions 2023-EAB-0609, 2023-EAB-0610, and 2023-EAB-0611 remain undisturbed.

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

DATE of Service: August 22, 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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