

EMPLOYMENT APPEALS BOARD DECISION
2023-EAB-0702

Reversed & Remanded

PROCEDURAL HISTORY AND FINDINGS OF FACT: On November 13, 2020, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause and was disqualified from receiving benefits effective July 21, 2019 (decision # 94039). Claimant filed a timely request for hearing. On February 25, 2021, the Office of Administrative Hearings (OAH) mailed notice of a scheduled for March 10, 2021. On March 10, 2021, ALJ S. Lee conducted a hearing at which the employer failed to appear, and on March 18, 2021 issued Order No. 21-UI-162999, reversing decision # 94039 by concluding that claimant quit work with good cause and was not disqualified from receiving benefits based on the work separation. On April 7, 2021, Order No. 21-UI-162999 became final without the employer having filed a request to reopen the March 10, 2021 hearing.

On June 7, 2021, the employer filed a late request to reopen the March 10, 2021 hearing. On May 26, 2023, OAH mailed notice of a hearing scheduled for May 6, 2023 to determine whether the March 10, 2021 hearing should be reopened and, if so, the merits of decision # 94039. On June 6, 2023, ALJ Wardlow conducted a hearing and, on the record, denied the employer's late request to reopen the March 10, 2021 hearing. Audio Record at 18:28 to 18:55. On June 7, 2023, the Office of Administrative Hearings (OAH) served a Certificate of Mailing for Order No. 23-UI-227163. However, due to an apparent clerical error, a copy of Order No. 21-UI-162999 was attached to it rather than an order reflecting the results of the June 6, 2023 hearing. On June 20, 2023, the employer filed an application for review of Order No. 23-UI-227163 with EAB.

CONCLUSIONS AND REASONS: Order No. 23-UI-227163 is set aside and the matter remanded for issuance of a new written order.

OAR 471-040-0030 (August 1, 2004) provides:

- (1) The administrative law judge shall promptly prepare and serve a written decision after the conclusion of the hearing.

(2) The administrative law judge's decision shall be based upon the evidence in the hearing record and upon any stipulated or officially noticed facts. Any findings of fact by the administrative law judge shall be based upon reliable, probative, and substantial evidence.

(3) The administrative law judge's decision shall be in an approved form and shall contain:

- (a) A caption clearly identifying the parties;
- (b) A statement of jurisdiction;
- (c) A statement of the issues and law involved;
- (d) Findings of fact;
- (e) Conclusions based upon the findings of fact; or a statement adopting conclusions set forth in the appealed administrative decision; and
- (f) A decision setting forth the action to be taken.

(4) Copies of the administrative law judge's decision shall be personally delivered or mailed to the parties, or their authorized agents, at their last address of record.

* * *

Order No. 23-UI-227163 did not comport with the requirements of OAR 471-040-0030 because it was not based on the evidence of record in the June 6, 2023 hearing and made no reference to that hearing. As it is reasonable to infer that an order meeting the requirements of OAR 471-040-0030 was written following the June 6, 2023 hearing, but not attached to the Certificate of Mailing or served on the parties simply due to a clerical error, a further hearing on remand is not required. Accordingly, Order No. 23-UI-227163 is set aside and the matter remanded for the issuance of a written order reflecting the results of the June 6, 2023 hearing.

DECISION: Order No. 23-UI-227163 is set aside, and this matter remanded for further proceedings consistent with this order.

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

DATE of Service: July 31, 2023

NOTE: The failure of any party to appear at a hearing on remand, if one is held, will not reinstate Order No. 23-UI-227163 or return this matter to EAB. Only a timely application for review of the subsequent order will cause this matter to return to EAB.

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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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