

**EMPLOYMENT APPEALS BOARD DECISION**  
**2023-EAB-1058**

*Reversed*  
*Eligible Weeks 16-23 through 29-23<sup>1</sup>*

**PROCEDURAL HISTORY:** On August 3, 2023, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant failed to provide information in accordance with the Department's rules and was not eligible for unemployment insurance benefits for the weeks of January 15, 2023 through July 22, 2023 (weeks 03-23 to 29-23) and until the reason for the denial had ended (decision # 153853).<sup>2</sup> Claimant filed a timely request for hearing. On September 5, 2023, ALJ Chiller conducted a hearing, and on September 8, 2023 issued Order No. 23-UI-235389, affirming decision # 153853. On September 20, 2023, claimant filed an application for review with the Employment Appeals Board (EAB).

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

**FINDINGS OF FACT:** (1) On July 22, 2022, claimant filed an initial claim for unemployment insurance benefits.<sup>3</sup> The Department determined that the claim was monetarily valid. Claimant did not claim benefits for the weeks of January 15, 2023 through April 15, 2023 (weeks 03-23 through 15-23), but claimed benefits for the weeks of April 16, 2023 through July 22, 2023 (weeks 16-23 through 29-23). Claimant was not paid benefits for any of these weeks.

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<sup>1</sup> Although decision # 153853 references weeks 03-23 to 29-23 claimant did not claim benefits for the weeks of January 15, 2023 through April 15, 2023 (weeks 03-23 through 15-23), but claimed benefits for the weeks of April 16, 2023 through July 22, 2023 (weeks 16-23 through 29-23).

<sup>2</sup> Decision # 153853 stated the period of ineligibility began Monday, January 16, 2023 rather than Sunday, January 15, 2023. Decision # 153853 at 1. As benefit weeks begin on a Sunday, this was presumed to be a scrivener's error and the ineligibility period began January 15, 2023.

<sup>3</sup> 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.

(2) On January 9, 2023, the Department mailed a letter to claimant requesting information. The letter stated that the Department “has received information from the National Directory of New Hires that you have been hired and/or recently started working for AT HOME SENIOR SOLUTIONS INC. You have now claimed the week ending 11/26/2022 but reported no hours of work and earnings. Additional information is needed to determine if you are eligible for unemployment insurance benefits.” Exhibit 3 at 1. The letter directed him to “either complete and return this letter to the address listed above or call [the Department’s phone number] within five (5) days to provide the requested information.” Exhibit 3 at 1. The letter further stated, “If additional information is needed, we will contact you.” Exhibit 3 at 1.

(3) Also on January 9, 2023, claimant began working for Bristol Hospice Company. Claimant therefore intended to stop claiming benefits, and also stopped opening some mail from the Department for this reason.

(4) On January 10, 2023 or January 11, 2023, claimant received and opened a letter from the Department that he considered a “generic” request for information, which stated something to the effect of, “We just received information that you have just started with a new employer[.]” Transcript at 18. The letter gave the option of providing the requested information to the Department by phone.

(5) On January 13, 2023, claimant called the Department to provide the information requested in the letter he opened. A representative asked claimant questions from a “New Hire Script” that included: “Please provide the name, address and phone of the employer. . . What date did you start work?. . . What are your weekly hours and earnings for that employer?. . . If you have stopped working for that employer, last day worked?. . . Why no longer working?” Exhibit 4 at 1. These were the same questions posed by the January 9, 2023 letter. Exhibit 3 at 1. Claimant answered each of the questions posed and the representative recorded his responses. His answers all referred to his employment with Bristol Hospice Company. Claimant was not asked about, and did not volunteer information about, At Home Senior Solutions, Inc. during the call.

(6) After not claiming benefits for the weeks of January 15, 2023 through April 15, 2023 (weeks 03-23 through 15-23), claimant requested to reopen his claim for the week of April 16, 2023 through April 22, 2023 (week 16-23). In the course of examining the reopened claim, the Department requested information from At Home Senior Solutions, Inc. regarding claimant.

(7) On June 12, 2023, At Home Senior Solutions, Inc. responded to the Department’s request for information regarding claimant. They reported that he had been working for them one day per week since November 22, 2022, and that he continued to work for them. Exhibit 1 at 1.

(8) On July 17, 2023, the Department left a voicemail for claimant requesting that he call back within 48 hours to provide information, including information about the response they received from At Home Senior Solutions, Inc. Claimant did not receive the message or return the call.

(9) On August 3, 2023, the Department issued decision # 153853, concluding that claimant failed to provide requested information by January 16, 2023, and was therefore ineligible for benefits.

**CONCLUSIONS AND REASONS:** Claimant did not fail to provide requested information in accordance with the Department’s rules.

Under ORS 657.155(1)(b), in order to be eligible to receive benefits with respect to any week, an individual must make a claim for benefits with respect to such week in accordance with ORS 657.260. ORS 657.260(1) provides that claims for benefits shall be filed in accordance with such regulations as the Department may prescribe. OAR 471-030-0025 (January 11, 2018) states:

- (1) With all claims, an individual shall furnish the Director with . . . information required for processing their claim. Such information may include, but is not limited to, information pertaining to . . . work seeking activity[.]\* \* \*
- (2) The claimant is required to furnish such information required for processing their claim within the time frame provided by the Director or an authorized representative of the Employment Department. Unless the time frame is otherwise defined under Employment Department statute or rule, or is specifically directed otherwise by an authorized representative of the Employment Department, the claimant is required to respond to all requests for information within the following time frames:
  - (a) For requests for information by letter mailed to the address of record, the claimant shall have five (5) calendar days to respond from the date the letter was mailed. When responding by mail, the date of the response shall be the date of the postmark affixed by the United States Postal Service. In the absence of a postmarked date, the date of the response shall be the most probable date of mailing as determined by the Employment Department.
  - (b) For requests for information by telephone message, fax, email, or other electronic means, the claimant shall have 48 hours to respond.

The Department mailed a letter to claimant on January 9, 2023, requesting that he provide information within five days. The order under review concluded that claimant failed to provide the requested information to the Department within the deadline set by the January 9, 2023 letter. Order No. 23-UI-235389 at 3. The record does not support this conclusion.

On or around January 10, 2023, claimant became aware that the Department wanted him to provide information, though the record is unclear as to exactly how he learned of this. Claimant testified that he either did not receive or did not open the January 9, 2023 letter because he did not recall reading a letter referencing At Home Senior Solutions Inc. Transcript at 18. However, his testimony that he received and read a “generic” letter requesting new hire information a day or two after January 9, 2023, and his description of that letter’s contents as bearing a notable similarity to the January 9, 2023 letter, suggest that claimant may have actually been referring to the January 9, 2023 letter. This evidence suggests the possibility that claimant neglected to read the part of the letter referencing At Home Senior Solutions, Inc. Regardless of whether claimant read the January 9, 2023 letter or a different but similar letter, however, the letter he read led him to call the Department on January 13, 2023 to provide information.

During his January 13, 2023 call to the Department, claimant provided the “new hire” information requested of him. The Department’s record of the questions asked and answers given during the call

shows that claimant was asked the same questions posed by the January 9, 2023 letter and that claimant provided complete information about the employer, Bristol Hospice Company, for whom he had recently started working. Exhibit 4 at 1. While the January 9, 2023 letter mentioned that it was being sent because the Department learned of claimant possibly having been employed by At Home Senior Solutions, Inc., neither the letter nor the phone representative instructed claimant to answer the questions only with regard to At Home Senior Solutions Inc. It can reasonably be inferred from these facts that both claimant and the representative believed that claimant had satisfied the Department's January 9, 2023 request for information within five days of the letter's mailing.

Further, that the Department did not issue an administrative decision concluding that claimant had failed to provide information by the five-day deadline until nearly seven months after that deadline suggests that the Department did not initially believe that claimant had failed to provide the requested information following his January 13, 2023 call. Instead, the timing of the issuance of decision # 153853 suggests that it was issued in response to their *July 17, 2023* request for additional information from claimant going unfulfilled. However, decision # 153853 alleged only that claimant failed to provide information with regard to the deadline to respond to the *January 9, 2023* letter. Because he timely provided information requested by the January 9, 2023 letter, claimant did not fail to provide information in accordance with the Department's rules.

For these reasons, claimant did not fail to provide requested information in accordance with the Department's rules and is not ineligible to receive unemployment insurance benefits on that basis for the weeks of January 15, 2023 through July 22, 2023 (weeks 03-23 to 29-23).

**DECISION:** Order No. 23-UI-235389 is set aside, as outlined above.

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

**DATE of Service:** November 3, 2023

**NOTE:** This decision reverses an order that denied benefits. Please note that payment of benefits, if any are owed, may take approximately a week for the Department to complete.

**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](https://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.

**Please help us improve our service by completing an online customer service survey.** To complete the survey, please go to <https://www.surveygizmo.com/s3/5552642/EAB-Customer-Service-Survey>. You can access the survey using a computer, tablet, or smartphone. If you are unable to complete the survey online and need a paper copy of the survey, please contact our office.



# 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.

**Employment Appeals Board - 875 Union Street NE | Salem, OR 97311**  
 Phone: (503) 378-2077 | 1-800-734-6949 | Fax: (503) 378-2129 | TDD: 711  
[www.Oregon.gov/Employ/eab](http://www.Oregon.gov/Employ/eab)

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