

EMPLOYMENT APPEALS BOARD DECISION
2023-EAB-1158

Application for Review Dismissed
No Justiciable Controversy

PROCEDURAL HISTORY AND FINDINGS OF FACT: On November 23, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant failed to register for work in accordance with the Department's rules and therefore was ineligible to receive unemployment insurance benefits for the week of October 31, 2021, through November 6, 2021 (week 44-21), and until the reason for the denial had ended. On December 13, 2021, the November 23, 2021, administrative decision became final without claimant having filed a request for hearing. On February 15, 2022, claimant filed a late request for hearing. ALJ Kangas considered claimant's request, and on May 23, 2022, issued Order No. 22-UI-194433, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by June 6, 2022. On June 13, 2022, claimant filed a late response to the appellant questionnaire and a timely application for review of Order No. 22-UI-194433 with the Employment Appeals Board (EAB). On August 2, 2022, ALJ Kangas mailed a letter stating that the Office of Administrative Hearings (OAH) would not consider claimant's questionnaire response or issue another order regarding this matter because the questionnaire response was late. The matter came before EAB based upon claimant's June 13, 2022, application for review of Order No. 22-UI-194433. On August 18, 2022, EAB issued EAB Decision 2022-EAB-0850, which reversed Order No. 22-UI-194433 and remanded the matter for a hearing on whether claimant's late request for hearing should be allowed, and if so, the merits of the November 23, 2021, administrative decision.

On October 2, 2023, ALJ Enyinnaya conducted a hearing. The Employment Department submitted an Attestation in lieu of attending the hearing. On October 6, 2023, ALJ Enyinnaya issued Order No. 23-UI-237905, modifying the November 23, 2021 administrative decision by allowing claimant's late request for hearing and concluding that claimant did not fail to register for work in accordance with the Department's rules for the period including October 31, 2021 through December 4, 2021 (weeks 44-21 through 48-21), and therefore was not ineligible to receive benefits for that period on that basis. On October 17, 2023, claimant filed an application for review of Order No. 23-UI-237905 with EAB.

WRITTEN ARGUMENT: EAB considered claimant's written arguments in reaching this decision to the extent they were based on the hearing record.

CONCLUSIONS AND REASONS: Claimant’s application for review of Order No. 23-UI-237905 presents no justiciable controversy and is dismissed.

On October 17, 2023, claimant filed with EAB an application for review of Order No. 23-UI-237905 that allowed claimant’s late request for hearing of the November 21, 2023 administrative decision and modified the November 21, 2023 decision by concluding that claimant did not fail to register for work in accordance with the Department’s rules for the period including October 31, 2021 through December 4, 2021 (weeks 44-21 through 48-21), and therefore was not ineligible to receive benefits for that period on that basis.

Claimant was found eligible to receive benefits for all the weeks at issue in Order No. 23-UI-237905. Therefore, claimant has not alleged an error that would entitle him to further relief in this matter. Claimant alleged that he has not received unemployment benefits for the period including August 26, 2021, through October 31, 2021,¹ and the period from December 4, 2021² through February 10, 2022. Claimant’s October 19, 2023, Written Argument; Claimant’s November 7, 2023, Written Argument. However, the order under review here pertains only to the period of October 31, 2021, through December 4, 2021. Because the Order under review does not include the periods of August 26, 2021 through October 30, 2021 or December 5, 2021 through February 10, 2022, EAB does not have jurisdiction to address claimant’s eligibility for benefits for those weeks. Accordingly, there is no justiciable controversy before EAB based upon claimant’s application for review. *See accord Barcik v. Kubiacyk*, 321 Or 174, 895 P2d 765 (1995). Because the case before EAB presents no justiciable controversy, the application for review is dismissed and Order No. 23-UI-237905 remains undisturbed.

DECISION: The application for review filed October 17, 2023, is dismissed. Order No. 23-UI-237905 remains undisturbed.

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

DATE of Service: November 21, 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.

¹ The last day of week 43-21 is October 30, 2021, not October 31, 2021. Thus, claimant’s assertion that he has not been paid benefits “to [October] 31, 2021” is presumed to be a typographical error that should state October 30, 2021. Claimant’s October 19, 2023 Written Argument; Claimant’s November 7, 2023 Written Argument.

² The first day of week 49-21 is December 5, 2021, not December 4, 2021. Thus, claimant’s assertion that he has not been paid “December 4, 2021 to . . . [February 10, 2022]” is also presumed to be a typographical error that should state December 5, 2021. Claimant’s November 7, 2023 Written Argument.

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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

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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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