

EMPLOYMENT APPEALS BOARD DECISION
2023-EAB-1173

Affirmed
Late Request for Hearing on PUA Determination Dismissed
Late Request for Hearing on Overpayment Decision Dismissed
Overpayment Waiver Denied

PROCEDURAL HISTORY: On June 3, 2022, the Oregon Employment Department (the Department) served a Notice of Determination for Pandemic Unemployment Assistance (PUA) concluding that claimant was not eligible for PUA benefits effective December 6, 2020. On June 10, 2022, the Department served notice of an administrative decision based in part on the June 3, 2022, PUA determination, concluding that claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits, and assessing an overpayment of \$18,290 in combined PUA and Federal Pandemic Unemployment Compensation (FPUC) benefits that claimant was required to repay, and a \$2,743.50 monetary penalty. On June 23, 2022, the June 3, 2022, PUA determination became final without claimant having filed a request for hearing. On June 30, 2022, the June 10, 2022, overpayment decision became final without claimant having filed a request for hearing. On August 31, 2022, the Department served notice of an administrative decision denying claimant's request for waiver of the overpayment that the Department had assessed on June 10, 2022 (decision # 154401). On September 20, 2022, decision # 154401 became final without claimant having filed a request for hearing.

On February 27, 2023, claimant filed late requests for hearing on the June 3, 2022, PUA determination, the June 10, 2022, overpayment decision, and decision # 154401. ALJ Kangas considered claimant's requests, and on May 23, 2023, issued Orders No. 23-UI-225753, 23-UI-225754, and 23-UI-225755, dismissing the requests as late, subject to claimant's right to renew the requests by responding to an appellant questionnaire by June 6, 2023. On June 6, 2023, claimant filed a timely response to the appellant questionnaire. On June 14, 2023, the Office of Administrative Hearings (OAH) mailed letters stating that Orders No. 23-UI-225753, 23-UI-225754, and 23-UI-225755 were vacated and that hearings would be scheduled to determine whether to allow claimant's late requests for hearing and, if so, the merits of the June 3, 2022, PUA determination, the June 10, 2022, overpayment decision, and decision # 154401.

On July 7, 2023, ALJ Lucas conducted a hearing on decision # 154401, and on July 14, 2023, issued Order No. 23-UI-230530, allowing claimant's late request for hearing on decision # 154401 and

affirming that decision on the merits. On July 31, 2023, claimant filed an application for review of Order No. 23-UI-230530 with the Employment Appeals Board (EAB). On September 8, 2023, EAB issued EAB Decision 2023-EAB-0838, modifying Order No. 23-UI-230530 by allowing claimant's late request for hearing on decision # 154401, and setting aside the order as to the merits of decision # 154401 and remanding the matter for further proceedings. At that time, claimant's requests for hearing on the June 3, 2022, PUA determination and the June 10, 2022, overpayment decision remained pending at OAH.

On October 3, 2023, ALJ Lucas conducted a combined hearing on the June 3, 2022, PUA determination and the June 10, 2022, overpayment decision, and a separate hearing on decision # 154401. On October 6, 2023, ALJ Lucas issued Orders No. 23-UI-237917 and 23-UI-237921, dismissing claimant's late requests for hearing on the June 3, 2022, PUA determination and the June 10, 2022, overpayment decision, leaving those decisions undisturbed. Also on October 6, 2023, ALJ Lucas issued Order No. 23-UI-238015, re-affirming decision # 154401 on the merits. On October 20, 2023, claimant filed applications for review of Orders No. 23-UI-237917, 23-UI-237921, and 23-UI-238015 with EAB.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 23-UI-237917, 23-UI-237921, and 23-UI-238015. For case-tracking purposes, this decision is being issued in triplicate (EAB Decisions 2023-EAB-1173, 2023-EAB-1174, and 2023-EAB-1176).

EAB reviewed the entire consolidated hearing record. On *de novo* review and pursuant to ORS 657.275(2), the orders under review are **adopted**.

DECISION: Orders No. 23-UI-237917, 23-UI-237921, and 23-UI-238015 are affirmed.

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

DATE of Service: December 1, 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.

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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