

EMPLOYMENT APPEALS BOARD DECISION
2023-EAB-1181-R

Request for Reconsideration Allowed
EAB Decision 2023-EAB-1181 Adhered to on Reconsideration

PROCEDURAL HISTORY: On December 15, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits, assessing a \$14,760 overpayment of Pandemic Unemployment Assistance (PUA) benefits, an \$1,800 overpayment of Lost Wages Assistance (LWA) benefits, and a \$20,100 overpayment of Federal Pandemic Unemployment Assistance (FPUC) benefits that claimant was required to repay, and a \$5,229 monetary penalty. On January 4, 2022, the December 15, 2021, administrative decision became final without claimant having requested a hearing. On July 11, 2022, claimant filed a late request for hearing. ALJ Kangas considered claimant's request, and on October 11, 2022, issued Order No. 22-UI-204715, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by October 25, 2022. On October 25, 2022, claimant filed a timely response to the appellant questionnaire.

On March 10, 2023, the Office of Administrative Hearings (OAH) mailed a letter stating that Order No. 22-UI-204715 was vacated and that a hearing would be scheduled to determine whether to allow claimant's late request for hearing, and if so, the merits of the December 15, 2021, administrative decision. On September 14, 2023, ALJ Roberts conducted a hearing, and on September 22, 2023, issued Order No. 23-UI-236578, allowing claimant's late request for hearing as with good cause, but affirming the December 15, 2021, administrative decision. On October 12, 2023, Order No. 23-UI-236578 became final without claimant having filed an application for review with the Employment Appeals Board (EAB). On October 23, 2023, claimant filed a late application for review of Order No. 23-UI-236578 with EAB. On November 30, 2023, EAB issued EAB Decision 2023-EAB-1181, dismissing claimant's application for review without prejudice. On December 19, 2023, claimant filed a request for reconsideration of EAB Decision 2023-EAB-1181. This decision is issued pursuant to EAB's authority under ORS 657.290(3).

CONCLUSIONS AND REASONS: Claimant's request for reconsideration is allowed. On reconsideration, EAB Decision 2023-EAB-1181 is adhered to, as clarified herein.

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 dismissed claimant’s late application for review of Order No. 23-UI-236578 without prejudice and subject to claimant filing timely requests for reconsideration within 20 days after EAB’s dismissal decision was issued. Claimant filed a request for reconsideration consistent with the requirements set forth in OAR 471-041-0145. The request for reconsideration is, therefore, allowed.

Claimant included a written statement with his request for reconsideration. However, this statement does not further explain why claimant filed his application for review of Order No. 23-UI-236578 late, and therefore does not correct a previous error of fact or law in EAB Decision 2023-EAB-1181. Therefore, claimant has not shown good cause for filing the late application for review, and the application for review of Order No. 23-UI-236578 remains dismissed.

DECISION: Claimant’s request for reconsideration is allowed. On reconsideration, EAB Decision 2023-EAB-1181 is adhered to as clarified herein.

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

DATE of Service: January 23, 2024

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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