

EMPLOYMENT APPEALS BOARD DECISION
2023-EAB-1197

Affirmed
Late Claims for Benefits Denied
Ineligible Weeks 01-21 through 05-21 and 10-21 through 22-21

PROCEDURAL HISTORY: On September 9, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant filed late claims for unemployment insurance benefits for the weeks including January 3, 2021, through February 6, 2021 (weeks 01-21 through 05-21) and therefore was ineligible to receive benefits for those weeks (decision # 124558). Also on September 9, 2021, the Department served notice of an administrative decision concluding that claimant filed late claims for benefits for the weeks including March 7, 2021, through May 1, 2021 (weeks 10-21 through 17-21) and therefore was ineligible to receive benefits for those weeks (decision # 124920). Also on September 9, 2021, the Department served notice of an administrative decision concluding that claimant filed late claims for benefits for the weeks including May 2, 2021, through June 5, 2021 (weeks 18-21 through 22-21) and therefore was ineligible to receive benefits for those weeks (decision # 125640). Claimant filed timely requests for hearing on decisions # 124558, 124920, and 125640.

On February 17, 2023, the Office of Administrative Hearings (OAH) served notices of a consolidated hearing on decisions # 124558, 124920, and 125640 scheduled for February 24, 2023, at 9:30 a.m. On February 24, 2023, claimant failed to appear for the hearing, and ALJ Nyberg issued Orders No. 23-UI-217106, 23-UI-217107, and 23-UI-217102 dismissing the hearing requests due to claimant's failure to appear, and leaving decisions # 124558, 124920, and 125640, respectively, undisturbed. On March 16, 2023, Orders No. 23-UI-217106, 23-UI-217107, and 23-UI-217102 became final without claimant having filed requests to reopen the February 24, 2023, hearing or applications for review with the Employment Appeals Board (EAB). On August 24, 2023, claimant filed late requests to reopen the February 24, 2023, hearing.¹

¹ Claimant filed her requests to reopen the February 24, 2023 hearing by filing applications for review of Orders No. 23-UI-217106, 23-UI-217107, and 23-UI-217102 with EAB. Pursuant to OAR 471-041-0060(4) (May 13, 2019), because claimant failed to appear at the February 24, 2023 hearing, EAB treated the applications for review as requests to reopen the hearing under ORS 657.270.

On October 4, 2023, ALJ Nyberg conducted a hearing. On October 6, 2023, ALJ Nyberg issued Orders No. 23-UI-237931, 23-UI-237934, and 23-UI-237929, allowing claimant's late requests to reopen the February 24, 2023, hearing; respectively canceling Orders No. 23-UI-217106, 23-UI-217107, and 23-UI-217102; and respectively affirming decisions # 124558, 124920, and 125640 on the merits. On October 20, 2023, claimant filed applications for review of Orders No. 23-UI-237931, 23-UI-237934, and 23-UI-237929 with EAB.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of issued Orders No. 23-UI-237931, 23-UI-237934, and 23-UI-237929. For case-tracking purposes, this decision is being issued in triplicate (EAB Decisions 2023-EAB-1198, 2023-EAB-1197, and 2023-EAB-1171).

WRITTEN ARGUMENT: Claimant's argument contained information that was not part of the hearing record, and did not show that factors or circumstances beyond Claimant's reasonable control prevented her from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB considered only information received into evidence at the hearing when reaching this decision.

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-237931, 23-UI-237934, and 23-UI-237929 are affirmed.

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

DATE of Service: November 30, 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 ໄດ້ ໂດຍປະຕິບັດຕາມຄໍາແນະນໍາທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄໍາຕັດສິນນີ້.

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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