

EMPLOYMENT APPEALS BOARD DECISION
2023-EAB-1310

Late Application for Review Dismissed Without Prejudice

PROCEDURAL HISTORY AND FINDINGS OF FACT: On May 21, 2021, the Oregon Employment Department (the Department) served a Notice of Determination for Pandemic Unemployment Assistance (PUA) concluding that claimant was not entitled to PUA benefits effective December 27, 2020. On June 10, 2021, the May 21, 2021, PUA determination became final without claimant having filed a request for hearing. On June 8, 2023, claimant filed a late request for hearing. ALJ Kangas considered claimant's request, and on September 28, 2023, issued Order No. 23-UI-237147, dismissing claimant's request for hearing as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by October 12, 2023. On October 16, 2023, claimant filed a late response to the appellant questionnaire. On October 18, 2023, Order No. 23-UI-237147 became final without claimant having filed an application for review with the Employment Appeals Board (EAB). On October 23, 2023, 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. On December 4, 2023, claimant filed a late application for review with EAB. This matter comes before EAB based upon claimant's December 4, 2023, late application for review of Order No. 23-UI-237147.

EVIDENTIARY MATTER: EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence is the written statement claimant provided with their late application for review, and has been marked as EAB Exhibit 1, and a copy provided to the parties with this decision. Any party that objects to our admitting EAB Exhibit 1 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 exhibit will remain in the record.

CONCLUSIONS AND REASONS: Claimant's application for review is dismissed without prejudice.

On December 4, 2023, claimant filed an application for review of Order No. 23-UI-237147 with EAB. ORS 657.270(6) and ORS 657.270(7)(b) required the application for review to be filed no later than

October 18, 2023. Claimant's application for review is therefore late, and this application for review is dismissed.

The deadline for filing an application for review may be extended a reasonable time upon a showing of good cause. *See* ORS 657.875; OAR 471-041-0070 (May 13, 2019). If claimant believes they have good cause and filed their late application for review within a reasonable time, claimant may request that EAB reconsider this decision under OAR 471-041-0145 (May 13, 2019).

EAB will dismiss any request for reconsideration that does not include **all five** of the following:

1. Claimant must file the request for reconsideration within 20 days of the date this decision was mailed; the date this decision was mailed is January 12, 2024, *and*
2. Claimant must include a statement on the request for reconsideration declaring that they sent a copy of the request to the other party, *and*
3. Claimant must provide additional specific details about the reason they filed a late application for review to EAB. For example, claimant should include specific information about the date they received Order No. 23-UI-237147, whether they read it, whether they agreed or disagreed with the ALJ's order, the reason(s) why they did not file the application for review before the deadline, and how the reason(s) affected their ability to file a timely application for review.

Specifically, the deadline to file an application for review of Order No. 23-UI-237147 was October 18, 2023. Claimant returned answers to an appellant questionnaire attached to Order No. 23-UI-237147 on October 16, 2023. However, claimant did not file an application for review of Order No. 23-UI-237147 to EAB until December 4, 2023. Claimant should provide specific details explaining what, if anything, prevented them from filing their application for review until December 4, 2023. For example, claimant should provide specific details as to whether, and if so how, their December 4, 2023, application for review filing date was due to the domestic violence situation from which claimant fled or any physical or mental health condition caused by that situation; any other health condition claimant experienced, or mail delays caused by the address confidentiality program. If claimant attributes their December 4, 2023, application for review filing date to mail delays caused by the address confidentiality program, claimant should provide specific details explaining how they were able to return answers to the appellant questionnaire attached to Order No. 23-UI-237147 on October 16, 2023 but were not able to file their application for review of Order No. 23-UI-237147 until December 4, 2023.

Claimant should provide any other specific details that might help EAB determine whether or not the appellant had "good cause," which means factors or circumstances beyond their reasonable control prevented them from filing a timely application for review, *and*

4. Claimant must provide the date the circumstances that prevented them from filing a timely application for review (which they listed in response to #3, above) ceased to exist, *and*

5. The appellant must provide sufficient information to prove that they filed their application for review within seven days of that date.

The appellant may file a request for reconsideration in many ways; please note that you need only file *one* request for reconsideration:

1. Use your smart phone, tablet, or computer to fill out the “File a Written Argument” form, available on EAB’s website: <https://www.oregon.gov/EMPLOY/EAB/Pages/default.aspx>, *or*
2. Use your smart phone, tablet, or computer to send an email to EAB at OED_EAB_OFFICE@employ.oregon.gov, *or*
3. Send the request by U.S. mail or another delivery service, addressed to 875 Union St NE, Salem, Oregon 97311, *or*
4. Send EAB a fax at 503-378-2129.

DECISION: The application for review filed December 4, 2023, is dismissed without prejudice. Order No. 23-UI-237147 remains undisturbed.

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

DATE of Service: January 12, 2024

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.

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