

EMPLOYMENT APPEALS BOARD DECISION
2024-EAB-0008-R

Request for Reconsideration Allowed
EAB Decision 2024-EAB-0008 Adhered to on Reconsideration

PROCEDURAL HISTORY: On November 3, 2023, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause and was disqualified from receiving benefits effective July 30, 2023 (decision # 101216). Claimant filed a timely request for hearing. On December 8, 2023, ALJ Goodrich conducted a hearing at which the employer failed to appear, and on December 15, 2023, issued Order No. 23-UI-243537, reversing decision # 101216 by concluding that claimant quit work with good cause and was not disqualified from receiving benefits based on the work separation. On December 21, 2023, the employer filed an application for review with the Employment Appeals Board (EAB). On January 18, 2024, EAB issued EAB Decision 2024-EAB-0008, affirming Order No. 23-UI-243537 by adopting its findings and conclusions. On January 22, 2024, the employer filed a request for reconsideration with EAB. This decision is issued pursuant to EAB’s authority under ORS 657.290(3).

CONCLUSIONS AND REASONS: The employer’s request for reconsideration is allowed. EAB Decision 2024-EAB-0008 is adhered to on reconsideration, 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).

The employer’s request for reconsideration was filed within 20 days of the issuance of EAB Decision 2024-EAB-0008, contained a statement that a copy was provided to claimant, and requested correction of alleged errors of material fact or law. Accordingly, the request met the threshold requirements of OAR 471-041-0145 and is allowed. However, EAB Decision 2024-EAB-008 is adhered to on reconsideration.

The employer asserted in their request for reconsideration that Order No. 23-UI-243537, the findings and conclusions of which were adopted by EAB, erred in concluding that claimant quit work due to a grave situation and that she had no reasonable alternative to quitting. The employer included several documents with their request for reconsideration that were not a part of the hearing record. Employer's Request for Reconsideration at 3, 13, 15-18, 20-21, 23-36, 38. The employer contended these documents cast doubt on claimant's testimony that she quit work due to grave mental health symptoms attributable to her heavy workload, and showed instead that claimant quit "due to her obtaining work elsewhere." Employer's Request for Reconsideration at 4. Further, the employer contended that these documents cast doubt on claimant's testimony that she exhausted all reasonable alternatives to leaving, including reporting the "'unsustainable' nature of her workload and the mental health toll it was taking on her and her spouse" to several people in authority six months prior to quitting, taking several "mental health days" off from work, and making a request for part-time work which the employer denied. Order No. 23-UI-243537 at 3; Employer's Request for Reconsideration at 3. These contentions, if supported by the record, raise the question of whether errors of material fact were made in the order adopted by EAB.

However, the hearing record does not support the employer's contentions. The employer did not appear at the hearing, did not request reopening of the hearing, and did not explain what factors or circumstances prevented them from attending the hearing and submitting the documents included with their request for reconsideration into the hearing record at that time. The employer relies exclusively on this new information, rather than on evidence in the hearing record, to dispute claimant's hearing testimony and offer an alternative account of claimant's work separation. OAR 471-041-0090 (May 13, 2019) limits EAB's review to only that evidence received into the record at hearing unless new information offered by a party is relevant and material to EAB's determination, and factors or circumstances beyond the party's reasonable control prevented the party from offering the additional evidence into the hearing record. OAR 471-041-0090(1)(b). The employer has not made such a showing regarding the new information and, accordingly, EAB has not considered it.

The evidence received into the record at hearing, consisting largely of claimant's testimony, supports the findings of fact and conclusions of law contained in Order No. 23-UI-243537 and adopted by EAB. EAB Decision 2024-EAB-0008 is therefore adhered to on reconsideration.

DECISION: The employer's request for reconsideration is allowed. EAB Decision 2024-EAB-0008 is adhered to on reconsideration.

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

DATE of Service: February 28, 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

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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.

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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