

EMPLOYMENT APPEALS BOARD DECISION
2024-EAB-0106

Application for Review Dismissed
No Justiciable Controversy

PROCEDURAL HISTORY AND FINDINGS OF FACT: On December 14, 2023, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was not actively seeking work during the week of November 12 through November 18, 2023 (week 46-23) and was therefore ineligible to receive unemployment insurance benefits for that week (decision # 121143). Claimant filed a timely request for hearing. On January 10, 2024, ALJ Goodrich conducted a hearing, and on January 11, 2024, issued Order No. 24-UI-245319, reversing decision # 121143 by concluding that claimant was actively seeking work during week 46-23 and was not ineligible for benefits that week on that basis. On January 25, 2024, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: EAB considered claimant’s written argument when reaching this decision. Claimant stated in his argument that he was “not satisfied with the outcome in case # 2023-UI-03301 [Order No. 24-UI-245319]” and suggests that this dissatisfaction stemmed from his belief that the Department had “not honored the wishes of the court,” presumably by having not paid him benefits for several claimed weeks, including week 46-23.¹ Claimant’s Written Argument at 1. As explained in greater detail below, claimant’s argument in this regard did not demonstrate that his application for review presents a justiciable controversy.

CONCLUSIONS AND REASONS: Claimant’s application for review of Order No. 24-UI-245319 presents no justiciable controversy and is dismissed.

On January 25, 2024, claimant filed with EAB an application for review of an order fully favorable to claimant. The order under review concluded that claimant had been actively seeking work and was therefore not ineligible to receive benefits for week 46-23 on the basis of whether he actively sought work. Claimant’s written argument suggests that the Department’s continued denial of benefits for week

¹ As of January 25, 2024, claimant had not been paid benefits for the weeks of December 10, 2023 through January 20, 2024 (weeks 50-23 through 03-24), but Order No. 24-UI-245319 did not involve those benefit weeks. Benefits have since been paid for weeks 50-23 through 03-24, but not 46-23.

46-23 despite the issuance of Order No. 24-UI-245319 presents a controversy that can be adjudicated through EAB's review of that order. However, the Department's records do not show that claimant is currently being denied benefits for week 46-23 for any reason involving the issue addressed in Order No. 24-UI-245319. Rather, the records suggest that claimant is being denied benefits for that week due to administrative decision # 125344, which concluded that claimant was ineligible for benefits that week because the claim was filed late. The records further show that claimant filed a request for hearing on decision # 125344, which was dismissed as late by Order No. 24-UI-245865, and that Order No. 24-UI-245865 became final on February 7, 2024 without claimant having filed an application for review of that order with EAB.² It therefore appears that Order No. 24-UI-245865, rather than the order under review in this matter, is preventing claimant from being paid benefits for week 46-23. Therefore, EAB's review of Order No. 24-UI-245319 could not entitle claimant to further relief.

Because claimant did not assign error to any portion of Order No. 24-UI-245319, did not request reversal of any portion of the order, and alleged no facts entitling him to further relief in this matter, there is no justiciable controversy before EAB based upon claimant's application for review. *See accord Barcik v. Kubiacyk*, 321 Or 174, 895 P2d 765 (1995). Because the case before EAB presents no justiciable controversy, the application for review of Order No. 24-UI-245319 is dismissed and the order remains undisturbed.

DECISION: The application for review filed January 25, 2024, is dismissed. Order No. 24-UI-245319 remains undisturbed.

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

DATE of Service: February 29, 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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² If claimant is still seeking payment for week 46-23, he may wish to file an application for review of Order No. 24-UI-245865 with EAB. If he does so, he must include a statement with the application explaining why he did not file it by February 7, 2024, and should also explain why his request for hearing on decision # 125344, due December 20, 2023, was not timely filed.



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 desisyong.

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 الاستئناف 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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