

EMPLOYMENT APPEALS BOARD DECISION
2024-EAB-0131

Affirmed
Late Requests for Hearing Dismissed

PROCEDURAL HISTORY: On October 23, 2023, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant failed to provide information in accordance with the Department's rules and was ineligible for benefits for the weeks of October 1 through 14, 2023 (weeks 40-23 and 41-23) and until the reason for the denial ended (decision # 94724). Also on October 23, 2023, the Department served notice of an administrative decision concluding that claimant failed to register for work in accordance with the Department's rules and was ineligible for benefits for the week of October 1 through 7, 2023 (week 40-23) and until the reason for the denial ended. On November 13, 2023, both administrative decisions became final without claimant having filed requests for hearing.

On December 4, 2023, claimant filed late requests for hearing on both administrative decisions. ALJ Kangas considered claimant's requests, and on December 13, 2023, issued Orders No. 23-UI-243352 and 23-UI-243366, dismissing claimant's requests for hearing as late, subject to claimant's right to renew the requests by responding to an appellant questionnaire by December 27, 2023. On December 29, 2023, claimant filed a late response to the appellant questionnaire and timely applications for review of Orders No. 23-UI-243352 and 23-UI-243366 with the Employment Appeals Board (EAB). On January 30, 2024, ALJ Scott mailed letters to claimant stating that because the appellant questionnaire response was late, it would not be considered and new orders would not be issued regarding the matters.

These matters come before EAB based upon claimant's December 29, 2023, applications for review of Orders No. 23-UI-243352 and 23-UI-243366. Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 23-UI-243352 and 23-UI-243366. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2024-EAB-0131 and 2024-EAB-0132).

EVIDENTIARY MATTER: EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence is claimant's response to the appellant questionnaire, 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.

FINDINGS OF FACT: (1) On October 23, 2023, the Department mailed decision # 94724 to claimant's mailing address of record. Decision # 94724 stated, "You have the right to appeal this decision if you do not believe it is correct. Your request for appeal must be received no later than November 13, 2023." Order No. 23-UI-243352, Exhibit 1 at 2.

(2) On October 23, 2023, the Department mailed the October 23, 2023, work registration decision to claimant's mailing address of record. This administrative decision stated, "You have the right to appeal this decision if you do not believe it is correct. Your request for appeal must be received no later than 11/13/2023." Order No. 23-UI-243366, Exhibit 1 at 1.

(3) Claimant received both administrative decisions shortly after they were mailed. Claimant worked with the Department toward resolving the issues underlying the administrative decisions, but did not file requests for hearing until December 4, 2023.

CONCLUSIONS AND REASONS: Claimant's late requests for hearing are dismissed.

ORS 657.269 provides that the Department's decisions become final unless a party files a request for hearing within 20 days after the date the decision is mailed. ORS 657.875 provides that the 20-day deadline may be extended a "reasonable time" upon a showing of "good cause." OAR 471-040-0010 (February 10, 2012) provides that "good cause" includes factors beyond an applicant's reasonable control or an excusable mistake, and defines "reasonable time" as seven days after those factors ceased to exist. Good cause does not include "[n]ot understanding the implications of a decision or notice when it is received." OAR 471-040-0010(1)(b)(B).

The requests for hearing on both administrative decisions were due by November 13, 2023. Because claimant did not file the requests for hearing until December 4, 2023, the requests were late. Claimant filed a response to the appellant questionnaire with their applications for review. In it, claimant wrote that they received the administrative decisions on October 23, 2023. EAB Exhibit 1 at 1. Though that was the date the decisions were mailed, it can reasonably be inferred from this statement that claimant received the decisions either that day or shortly thereafter.

In response to a question asking why the requests for hearing were not timely filed, claimant stated, in relevant part, "I was not aware of the deadline." EAB Exhibit 1 at 2. Additionally, claimant asserted that they had good cause for late filing because they were "not properly informed of the process." EAB Exhibit 1 at 2. However, each administrative decision included information on claimant's right to appeal and the deadline by which to do so. Claimant's questionnaire response does not describe other circumstances that caused them to delay filing the requests for hearing. Instead, it suggests that claimant's focus at the time the decisions were issued was on working with the Department to verify their identity and register for work, which were the issues underlying the administrative decisions. Therefore, claimant has shown only that their requests for hearing were late because claimant did not understand the implications of failing to file the requests by the deadline stated in the decisions. Accordingly, claimant has not shown good cause for late filing, and the requests for hearing are dismissed.

DECISION: Orders No. 23-UI-243352 and 23-UI-243366 are affirmed.

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

DATE of Service: February 15, 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 desisyong ito.

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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