

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0214**

*Reversed*  
*Late Request for Hearing Allowed*  
*Merits Hearing Required*

**PROCEDURAL HISTORY:** On December 19, 2023, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was paid unemployment insurance benefits to which they were not entitled and assessing an overpayment of \$1,424 in unemployment insurance benefits that claimant was liable to repay the Department (decision # 201042). On January 8, 2024, decision # 201042 became final without claimant having filed a request for hearing. On January 17, 2024, claimant filed a late request for hearing on decision # 201042. ALJ Kangas considered claimant's request, and on January 30, 2024, issued Order No. 24-UI-246818, dismissing claimant's request for hearing as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by February 13, 2024. On February 14, 2024, claimant filed a late response to the appellant questionnaire and a timely application for review of Order No. 24-UI-246818 with the Employment Appeals Board (EAB). On February 26, 2024, 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. This matter comes before EAB based upon claimant's February 14, 2024, application for review of Order No. 24-UI-246818.

**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, 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) Claimant last claimed unemployment insurance benefits in January 2023 and had not "had communication around unemployment" since that time. Exhibit 1 at 3; EAB Exhibit 1.

(2) At some point after January 2023, claimant moved from Portland, Oregon to Austin, Texas. Claimant arranged with the U.S. Postal Service to have mail addressed to the Portland address be forwarded to their current address in Austin. Claimant did not update their address with the Department.

(3) On December 19, 2023, the Department mailed decision # 201042 to claimant's address on file with the Department, which was claimant's former address in Portland. Decision # 201042 stated, "To be timely, any appeal from this decision must be filed on or before January 8, 2024." Exhibit 1 at 1.

(4) From December 22, 2023, through January 2, 2024, claimant was in Puerto Rico on a family trip and then away from home for a wedding in Portland.

(5) The U.S. Postal Service forwarded decision # 201042 to claimant's Austin address. Claimant received decision # 201042 on January 10, 2024. Claimant requested a hearing on decision # 201042 on January 17, 2024.

**CONCLUSIONS AND REASONS:** Order No. 24-UI-246818 is reversed, claimant's late request for hearing is allowed, and a hearing on the merits of decision # 201042 is required.

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 "Failure to receive a document due to not notifying the Employment Department or Office of Administrative Hearings of an updated address while the person is claiming benefits or if the person knows, or reasonably should know, of a pending appeal[.]" OAR 471-040-0010(1)(b)(A).

On December 19, 2023, the Department mailed decision # 201042 to claimant at claimant's address of record on file with the Department. The 20-day deadline for claimant to file a timely request for hearing on that decision was January 8, 2024. Claimant did not file a request for hearing on decision # 201042 until January 17, 2024. Accordingly, claimant's request for hearing was late.

Claimant established good cause to extend the filing deadline to January 10, 2024, and filed within a seven-day reasonable time on January 17, 2024. Claimant did not receive decision # 201042 until January 10, 2024, due to factors beyond their reasonable control. The Department mailed the administrative decision on December 19, 2023. However, from December 22, 2023, through January 2, 2024, claimant was on a family trip and then away from home for a wedding in Portland. Claimant ultimately received decision # 201042 on January 10, 2024, upon it being forwarded to claimant's Austin address. Although claimant did not update their address with the Department or OAH following their move to Austin, claimant had no reason to do so because, as of when they moved, claimant was not claiming benefits and did not have a pending appeal. Accordingly, claimant's travel outside the contiguous 48 states and to Portland and the delay in delivery of decision # 201042 to claimant's Austin address constituted factors beyond their reasonable control that caused claimant to be unable to timely request a hearing. Those circumstances ceased when claimant received decision # 201042 on January

10, 2024. Because claimant filed their late request for hearing seven days later on January 17, 2024, claimant filed within a seven-day reasonable time.

Accordingly, claimant established good cause to extend the deadline to file a request for hearing on decision # 201042 and filed within a reasonable time. Claimant's late request for hearing is therefore allowed, and claimant is entitled to a hearing on the merits of decision # 201042.

**DECISION:** Order No. 24-UI-246818 is set aside, and this matter remanded for further proceedings consistent with this order.

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

**DATE of Service:** March 20, 2024

**NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Order No. 24-UI-246818 or return this matter to EAB. Only a timely application for review of the subsequent order will cause this matter to return to EAB.

**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.

**Employment Appeals Board - 875 Union Street NE | Salem, OR 97311**  
 Phone: (503) 378-2077 | 1-800-734-6949 | Fax: (503) 378-2129 | TDD: 711  
[www.Oregon.gov/Employ/eab](http://www.Oregon.gov/Employ/eab)

The Oregon Employment Department is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Language assistance is available to persons with limited English proficiency at no cost.

El Departamento de Empleo de Oregon es un programa que respeta la igualdad de oportunidades. Disponemos de servicios o ayudas auxiliares, formatos alternos y asistencia de idiomas para personas con discapacidades o conocimiento limitado del inglés, a pedido y sin costo.