

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0216**

*Late Application for Review Allowed*  
*Order No. 24-UI-245742 Reversed*  
*Late Request for Hearing Allowed*  
*Merits Hearing Required*

**PROCEDURAL HISTORY:** On June 22, 2023, the Oregon Employment Department (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 therefore ineligible to receive unemployment insurance benefits for the week of June 4, 2023, through June 10, 2023 (week 23-23) and until the reason for the denial ended. On July 12, 2023, the June 22, 2023, administrative decision became final without claimant having filed a request for hearing. On July 25, 2023, claimant filed a late request for hearing on the June 22, 2023, administrative decision. ALJ Kangas considered the request, and on January 12, 2024, issued Order No. 24-UI-245472, dismissing the request for hearing as late, subject to claimant’s right to renew the request by responding to an appellant questionnaire by January 26, 2024. On February 1, 2024, Order No. 24-UI-245742 became final without claimant having filed a response to the appellant questionnaire or an application for review with the Employment Appeals Board (EAB). On February 24, 2024, claimant filed a late response to the appellant questionnaire and a late application for review with EAB.

**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 appellant questionnaire response and the written statement accompanying the 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.

**FINDINGS OF FACT:** (1) The June 22, 2023, administrative decision, mailed June 22, 2023 to claimant’s address of record on file with the Department, 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 07/12/2023.” Exhibit 1 at 1.

(2) Claimant had difficulty reading and writing in English and relied on his wife to handle matters relating to his claim. When the June 22, 2023, administrative decision was delivered to claimant, claimant's wife was no longer willing to assist claimant. Claimant was therefore unable to understand his appeal rights.

(3) On July 25, 2023, claimant or someone acting on his behalf mailed claimant's copy of the June 22, 2023, administrative decision to the Department. Printouts from the WorkSource website of claimant's WorkSource registration and job application log dated June 27, 2023, were included. Exhibit 2 at 2-6. This submission was processed as a late request for hearing on the June 22, 2023, administrative decision.

(4) Order No. 24-UI-245472, mailed January 12, 2024, to claimant's address of record on file with the Office of Administrative Hearings (OAH), stated, "You may appeal this decision by filing the attached form Application for Review with the Employment Appeals Board within 20 days of the date that this decision is mailed." Order No. 24-UI-245472 at 2. Order No. 24-UI-245472's Certificate of Mailing also stated, "Any party may appeal this Order by filing a Request for Review with the Employment Appeals Board no later than February 1, 2024."

(5) Claimant's father, who resided at the same address as claimant, received Order No. 24-UI-245472 in the mail but did not give it to claimant or tell him about it until February 9, 2024. Due to claimant's difficulty reading and writing in English, claimant relied on another person to "act as a translator" and respond to the order on his behalf. EAB Exhibit 1 at 2. This translator prepared a response to the appellant questionnaire as well as an application for review of Order No. 24-UI-245742, accompanied by a statement explaining why the application for review was late. These documents were filed by mail in an envelope postmarked February 24, 2024. EAB Exhibit 1 at 3.

**CONCLUSIONS AND REASONS:** Claimant's late application for review is allowed. Claimant's late request for hearing is allowed, and a hearing on the merits of the June 22, 2023, administrative decision is required.

**Late application for review.** An application for review is timely if it is filed within 20 days of the date that the Office of Administrative Hearings (OAH) mailed the order for which review is sought. ORS 657.270(6); OAR 471-041-0070(1) (May 13, 2019). The 20-day filing period may be extended a "reasonable time" upon a showing of "good cause." ORS 657.875; OAR 471-041-0070(2). "Good cause" means that factors or circumstances beyond the applicant's reasonable control prevented timely filing. OAR 471-041-0070(2)(a). A "reasonable time" is seven days after the circumstances that prevented the timely filing ceased to exist. OAR 471-041-0070(2)(b). A late application for review will be dismissed unless it includes a written statement describing the circumstances that prevented a timely filing. OAR 471-041-0070(3).

The application for review of Order No. 24-UI-245472 was due by February 1, 2024. Claimant's application for review was filed on February 24, 2024, and was therefore late. A statement accompanied the application for review, explaining that claimant's father received Order No. 24-UI-245472 but "kept [it] in a locked room" and did not give it to claimant until "[t]wo days ago from the date of this letter." EAB Exhibit 1 at 2. The letter was dated February 11, 2024, and it can therefore be inferred that claimant received Order No. 24-UI-245472 on February 9, 2024. As claimant received Order No. 24-UI-

245472 after the deadline to appeal, this was a factor beyond claimant's reasonable control that prevented timely filing until he received it.

Additionally, claimant's difficulty with reading and writing English then prompted him to seek translation assistance from someone he knew. This translator prepared a response to the appellant questionnaire, as well as the application for review and accompanying statement. While these documents were signed by claimant and dated February 11, 2024, the envelope in which they were mailed to EAB was not postmarked until February 24, 2024. As claimant was reliant on this translator for information about the appeals process, it is possible that the translator was responsible for the mailing delay, or that claimant was unaware of the time sensitivity involved in filing. The language barrier at issue was therefore an additional factor beyond claimant's reasonable control that continued to delay filing even after claimant received Order No. 24-UI-245472. This additional factor did not cease until the late application for review was filed on February 24, 2024. The late application for review was therefore filed within a "reasonable time" of when the factors that prevented timely filing ceased. Accordingly, claimant's late application for review is allowed.

**Late request for hearing.** 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.

The request for hearing on the June 22, 2023, administrative decision was due by July 12, 2023. Because claimant's request for hearing was filed July 25, 2023, the request was late. Claimant's appellant questionnaire response did not specifically address why his request for hearing on the June 22, 2023, administrative decision was filed late. However, the reasons given for the late filing of claimant's application for review were, more likely than not, also responsible for the late filing of his request for hearing.

As discussed previously, a language barrier existed that prevented claimant from reading and writing in English. The statement accompanying the application for review suggested that claimant was reliant on his wife to file and handle activity on his claim for this reason, but that the couple became estranged at some time after the claim was filed and thereafter claimant's wife "was unwilling to assist him in understanding the process." EAB Exhibit 1 at 2. It can reasonably be inferred that claimant was unable to understand his appeal rights regarding the June 22, 2023, administrative decision due to the language barrier, and his reliance on others to assist him delayed timely filing of the request for hearing. This constituted a factor beyond claimant's reasonable control that ceased on July 25, 2023, when claimant, or someone acting on his behalf, mailed documents to the Department that were considered a late request for hearing. Accordingly, claimant has shown good cause to extend the deadline for timely filing, and that the late request for hearing was filed within a "reasonable time" after the factor that prevented timely filing ceased. Claimant's late request for hearing is therefore allowed and a hearing on the merits of the June 22, 2023, administrative decision is required.

For these reasons, claimant's late application for review is allowed, claimant's late request for hearing is allowed, and the matter is remanded for a hearing on the merits of the June 22, 2023, administrative decision.

**DECISION:** Claimant's late application for review is allowed. Order No. 24-UI-245472 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:** April 2, 2024

**NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Order No. 24-UI-245472 or return this matter to EAB. Only a timely application for review of the subsequent order will cause this matter to return to EAB.

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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**

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**  
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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.