

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0440**

*Affirmed*  
*Request to Reopen Allowed*  
*Request for Hearing Timely Filed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On December 21, 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 February 5, 2023 (decision # 131403). Claimant filed a request for hearing. ALJ Scott considered claimant's request, and on January 31, 2024, issued Order No. 24-UI-247041, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by February 14, 2024. On February 5, 2024, claimant filed a timely response to the appellant questionnaire. On February 9, 2024, the Office of Administrative Hearings (OAH) mailed a letter stating that Order No. 24-UI-247041 was vacated and that a new hearing would be scheduled to determine whether to allow claimant's request for hearing and, if so, the merits of decision # 131403.

On February 12, 2024, OAH served notice that the hearing was scheduled for February 26, 2024. On February 26, 2024, claimant failed to appear for the hearing, and on February 29, 2024, ALJ Logan issued Order No. 24-UI-249121, dismissing claimant's request for hearing on decision # 131403 due to claimant's failure to appear. On March 5, 2024, claimant filed a timely request to reopen the hearing. On April 5, 2024, OAH served notice of a hearing on April 19, 2024, on whether to grant claimant's request to reopen and, if so, whether to allow claimant's request for hearing on decision # 131403 and, if so, the merits of decision # 131403.

On April 19, 2024, ALJ Strauch conducted the hearing, at which the employer failed to appear. On April 26, 2024, ALJ Strauch issued Order No. 24-UI-253015, granting claimant's request for a reopening, allowing claimant's request for hearing on decision # 131403 as timely, and reversing decision # 131403 by concluding that claimant had not separated from work from the employer and therefore was not disqualified from receiving benefits based on a work separation from the employer. On May 1, 2024, claimant filed an application for review of Order No. 24-UI-253015 with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** EAB did not consider claimant’s written argument when reaching this decision because she did not include a statement declaring that she provided a copy of her argument to the opposing party or parties as required by OAR 471-041-0080(2)(a) (May 13, 2019).

EAB considered the entire hearing record. EAB agrees with Order No. 24-UI-253015’s findings of fact, reasoning, and decision to grant claimant’s request for a reopening and allow claimant’s request for hearing as timely, and conclusion that claimant had not separated from work from the employer and therefore was *not* disqualified from receiving benefits based on a work separation from the employer. Pursuant to ORS 657.275(2), Order No. 24-UI-253015 is **adopted**.

Note that the order under review concluded that claimant had not separated from work from the employer Candy AKA Deca 23 LLC and so was *not* disqualified from receiving unemployment insurance benefits in this matter. Order No. 24-UI-253015 at 5. It is possible for an individual who is in an employment relationship to claim unemployment insurance benefits so long as for the week claimed the individual works less than full-time for the employer and their gross earnings are less than their weekly benefit amount. *See* ORS 657.100(1). For any such week claimed, other eligibility requirements must be fulfilled to receive benefits, such as verifying one’s identity, registering for and actively seeking work, and being able and available to accept suitable work. *See* ORS 657.155(1). A person may earn up to ten times minimum wage or one-third of their weekly benefit amount (whichever is more) in a week before their benefits are affected. *See* ORS 657.150(6). Any earnings above that amount will reduce one’s benefit payment for that week dollar for dollar.

The order under review concluded that claimant was not disqualified from receiving benefits and this decision adopts the order under review. Therefore, nothing in this EAB decision disqualifies claimant from receiving benefits based on her employment relationship with the employer Candy AKA Deca 23 LLC. If claimant believes she fulfills the eligibility criteria discussed above, she may wish to claim benefits while maintaining her employment relationship with the employer Candy AKA Deca 23 LLC.

**DECISION:** Order No. 24-UI-253015 is affirmed.

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

**DATE of Service:** June 11, 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](https://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.

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