

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0501**

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

**PROCEDURAL HISTORY:** On March 22, 2024, 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 therefore ineligible to receive unemployment insurance benefits effective March 17, 2024,<sup>1</sup> and until the reason for the denial ended (decision # L0003265117). On April 11, 2024, decision # L0003265117 became final without claimant having filed a request for hearing. On April 15, 2024, claimant filed a late request for hearing. On June 3, 2024, ALJ Fraser conducted a hearing and issued Order No. 24-UI-255581, dismissing claimant’s request for hearing as late without good cause and leaving decision # L0003265117 undisturbed. On June 13, 2024, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Decision # L0003265117, mailed to claimant’s address on file with the Department on March 22, 2024, stated, “You have the right to appeal our decision and request a hearing if you believe our decision is wrong. We must receive your request for a hearing no later than April 11, 2024.” Decision # L0003265117 at 2. Claimant received the decision electronically on March 24, 2024.

(2) On March 27, 2024, claimant sent a message to the Department via its website requesting a hearing on decision # L0003265117. The Department either did not receive this message or did not recognize it as a request for hearing.

(3) On April 15, 2024, claimant visited a WorkSource office for assistance using her Frances account and appealing or resolving the claim issue involved in decision # L0003265117. With this assistance, claimant filed a late request for hearing using Frances.

**CONCLUSIONS AND REASONS:** Claimant’s late request for hearing is allowed and a hearing on the merits of decision # L0003265117 is required.

<sup>1</sup> Though decision # L0003265117 stated that the period of ineligibility began March 21, 2024, it is presumed that it was intended to state March 17, 2024, as benefit weeks begin on Sundays, and March 21, 2024 was a Thursday.

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 decision # L0003265117 was due by April 11, 2024. Because claimant's request for hearing was filed April 15, 2024, it was late. The order under review concluded that claimant's unsuccessful attempts to file a timely request for hearing prior to April 15, 2024, did not constitute good cause to extend the deadline for timely filing. Order No. 24-UI-255581 at 3. The record does not support this conclusion.

Claimant testified that she received an electronic copy of decision # L0003265117 on March 24, 2024. Audio Record at 10:10. Claimant disagreed with the decision and testified that she attempted to file a request for hearing through various means, including by telephone and using Frances, but was unable to reach anyone by phone and unable to locate the request form within Frances. Audio Record at 13:42, 15:10. She further testified that on March 27, 2024, she sent a message to the Department on its website requesting a hearing. Audio Record at 17:15. The record does not show why the Department did not acknowledge or process this request. Claimant thereafter visited a WorkSource office to resolve claim issues and difficulties using Frances, and ultimately received assistance in filing a request for hearing on April 15, 2024, using Frances. It can reasonably be inferred that the Department's failure to receive or process claimant's March 27, 2024, request for hearing was caused by a factor beyond claimant's reasonable control, and claimant was unaware that the request had not been filed. Therefore, good cause has been shown to extend the deadline for timely filing.

This factor continued until April 15, 2024, when claimant, with the assistance of a WorkSource representative, realized that her previous request for hearing had not been processed. As her late request for hearing was filed the same day that the factor that had prevented timely filing ceased, it was filed within a "reasonable time." Accordingly, claimant's late request for hearing is allowed, and the matter remanded for a hearing on the merits of decision # L0003265117.

**DECISION:** Order No. 24-UI-255581 is set aside, and this matter remanded for further proceedings consistent with this order.

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

**DATE of Service:** July 17, 2024

**NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Order No. 24-UI-255581 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 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**

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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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