

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0529**

*Reversed & Remanded*

**PROCEDURAL HISTORY AND FINDINGS OF FACT:** On March 19, 2024, 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 ineligible for benefits for the week of February 18 through 24, 2024 (week 08-24) and until the reason for the denial ended (decision # L0003313753). On April 8, 2024, decision # L0003313753 became final without claimant having filed a request for hearing. On May 20, 2024, claimant filed a late request for hearing. ALJ Kangas considered claimant's request, and on June 12, 2024, issued Order No. 24-UI-256338, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by June 26, 2024. On July 2, 2024, claimant filed a late response to the appellant questionnaire and a timely application for review of Order No. 24-UI-256338 with the Employment Appeals Board (EAB). This matter comes before EAB based upon claimant's July 2, 2024 application for review of Order No. 24-UI-256338.

**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.

**CONCLUSIONS AND REASONS:** Order No. 24-UI-256338 is set aside, and this matter remanded for a hearing on whether claimant's late request for hearing on decision # L0003313753 should be allowed, and if so, the merits of that decision.

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 deadline to file a timely request for hearing on decision # L0003313753 was April 8, 2024. Because claimant did not request a hearing on decision # L0003313753 until May 20, 2024, the request for hearing was late.

The information contained in claimant’s appellant questionnaire response suggests that they received decision # L0003313753 at some point after it was mailed on March 19, 2024, although precisely when is not stated.<sup>1</sup> EAB Exhibit 1 at 1. The appellant questionnaire response indicates that at some point after receipt of decision # L0003313753, claimant attempted to use the Department’s new Frances Online website to request a hearing but “wasn’t able to navigate the new website and several calls were not returned and [claimant’s] ticket emails for a representative were not answered.” EAB Exhibit 1 at 1. Claimant then “kept leaving messages and emails for help,” and on May 20, 2024 “was finally able to speak with a representative via the Franc[e]s website who showed [claimant] how to [appeal] online.” EAB Exhibit 1 at 2. Claimant was able to file their hearing request on May 20, 2024, because they were “instructed by [a] live agent on how to set it up on the new website.” EAB Exhibit 1 at 2.

Decision # L0003313753 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 8, 2024.**” Exhibit 1 at 2 (emphasis in original). The decision further stated, “You may request a hearing in one of the following ways” and then stated, “Use Frances Online at frances.oregon.gov[.]” Exhibit 1 at 2. The decision also listed a telephone number to call to request a hearing as well as a PO Box address to mail a request for hearing.

Based on the foregoing, it appears claimant received decision # L0003313753 in the mail and then attempted to use Frances Online to request a hearing but, despite substantial efforts to attempt to use the website and seek help from the Department to do so, was not successful until May 20, 2024, when they got through to a live Department representative and received assistance. Claimant’s substantial but unsuccessful efforts to use Frances Online to file a request for hearing, coupled with the lack of response to their calls and emails to the Department until May 20, 2024, may have constituted factors beyond their reasonable control or an excusable mistake that would constitute good cause for the late appeal. However, further development of the record is necessary to determine whether claimant had good cause for the late request for hearing and, if so, whether claimant filed within a reasonable time of when the factors preventing a timely filing ceased to exist.

On remand, the ALJ should inquire as to when claimant received decision # L0003313753, confirm that they disagreed with the decision and wished to appeal it, and specifically ask when and how they tried to

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<sup>1</sup> In claimant’s appellant questionnaire response, in response to the question, “On what date (mm/dd/yy) did you receive the administrative decision?” claimant stated, “I received this letter approx. 6/15/24.” EAB Exhibit 1 at 1. Because Order No. 24-UI-256338 was issued on June 12, 2024, it is likely that it reached claimant in the mail on or about June 15, 2024, and therefore that the June 15, 2024 date claimant mentioned related to when claimant received Order No. 24-UI-256338. Thus, it appears that claimant misunderstood the question to be asking when he received the order under review, Order No. 24-UI-256338, when in fact the question called for claimant to state when he received the administrative decision in this case, decision # L0003313753. Given this apparent misunderstanding and the fact that claimant appealed decision # L0003313753 on May 20, 2024, nearly a month before June 15, 2024, claimant is presumed to have not meant to convey that he received decision # L0003313753 on June 15, 2024.

do so. The ALJ should ask questions to develop the record as to when claimant began trying to use Frances Online to file their hearing request, how many times claimant tried to use it, when they did so, and why they were not successful in using it to file an appeal. The ALJ should inquire as to when claimant began attempting to contact the Department for assistance, when and how they did so, and what the results of those attempted Department contacts were.

The ALJ should also ask for clarification about a statement that claimant made in their May 20, 2024 Frances Online hearing request. In that hearing request, claimant was asked, “What is your reason for appealing?” and claimant responded, “I was already hired and set to start the following Monday which I did, so I didnt see it necessary to keep looking for other employment options.” Exhibit 2 at 4. Claimant may have meant this as a reference to the work registration issue upon which decision # L0003313753 is based. However, the ALJ should inquire whether that information was intended to convey a reason why claimant filed their hearing request late, such as if claimant had gotten a job near in time to when they received decision # L0003313753 and decided, because of the new employment, that appealing decision # L0003313753 was unnecessary. If the record on remand shows that technical difficulties with Frances Online constituted good cause for claimant’s late request for hearing, and if claimant’s late request for hearing was made within a seven-day reasonable time, the late request for hearing should be allowed and the ALJ should turn to the merits of the case.

Order No. 24-UI-256338 therefore is reversed, and this matter remanded for a hearing on whether claimant’s late request for hearing should be allowed and, if so, the merits of decision # L0003313753.

**DECISION:** Order No. 24-UI-256338 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 26, 2024

**NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Order No. 24-UI-256338 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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