

EMPLOYMENT APPEALS BOARD DECISION
2024-EAB-0554

Este documento incluye información importante que no ha sido traducida al español. Llame a la Junta de Apelaciones de Empleo (EAB) al 503-378-2077 para obtener servicios de traducción gratuitos.¹

Late Application for Review Dismissed
La Aplicación Tardía Para Revisión De La Orden Judicial Es Rechazada

PROCEDURAL HISTORY: On September 2, 2022, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant received benefits to which they were not entitled, and assessing an overpayment of \$3,608 in regular unemployment insurance (regular UI) benefits and \$9,000 in Federal Pandemic Unemployment Compensation (FPUC) benefits that claimant was required to repay to the Department (decision # 165444). On September 22, 2022, decision # 165444 became final without claimant having filed a request for hearing. On September 26, 2022, claimant filed a late request for hearing on decision # 165444. ALJ Kangas considered claimant's request, and on January 18, 2023, issued Order No. 23-UI-212859, 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 1, 2023. On February 7, 2023, Order No. 23-UI-212859 became final without claimant having filed a response to the appellant questionnaire or an application for review with the Employment Appeals Board (EAB). On July 18, 2024, claimant filed a late response to the appellant questionnaire, which has also been construed as a late application for review of Order No. 23-UI-212859 with EAB.

ANTECEDENTES PROCESALES DEL CASO: *El 2 de septiembre de 2022, el Departamento de Empleo de Oregón (el Departamento) mandó por correo una decisión administrativa que concluía que la reclamante recibió beneficios a los que no tenía derecho, y impuso un sobrepago de \$3,608 en beneficios regulares del seguro de desempleo (UI regular) y \$9,000 en beneficios de Compensación Federal por Desempleo Pandémico (FPUC) que la reclamante debía reembolsar al Departamento (decisión # 165444). El 22 de septiembre de 2022, la decisión # 165444 se convirtió en final sin que la*

¹ This document includes important information that has not been translated into Spanish. Please call the Employment Appeals Board (EAB) at 503-378-2077 to obtain free translation services.

reclamante hubiera presentado una solicitud para una audiencia. El 26 de septiembre de 2022, la reclamante presentó una solicitud tardía de audiencia. La Jueza de la Ley Administrativa Kangas consideró la solicitud de audiencia y el 18 de enero de 2023 emitió la Orden No. 23-UI-212859, desestimando la solicitud por considerarla tardía, sujeto al derecho de la reclamante a renovar la solicitud respondiendo a un cuestionario del apelante antes del 1 de febrero de 2023. El 7 de febrero de 2023, la Orden No. 23-UI-212859 se convirtió en final sin que la reclamante haya presentado una respuesta al cuestionario del apelante o una solicitud de revisión ante la Junta de Apelaciones de Empleo (EAB). El 18 de julio de 2024, la reclamante presentó una respuesta tardía al cuestionario del apelante, que también se ha tratado como una solicitud tardía de revisión de la Orden No. 23-UI-212859 con EAB.

EVIDENTIARY MATTER: EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence consists of claimant’s response to the appellant questionnaire in Spanish, the postmarked envelope in which it was mailed, and an English translation of claimant’s answers to the questionnaire. This evidence 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.

ASUNTO DE PRUEBAS: *EAB ha considerado evidencia adicional para tomar esta decisión de acuerdo con OAR 471-041-0090(1) (13 de mayo de 2019). Las pruebas adicionales son la respuesta de la reclamante al cuestionario del apelante en español, el sobre con matasellos en el que se envió por correo, y una traducción al inglés de las respuestas de la reclamante al cuestionario. La evidencia adicional ha sido marcada como EAB Exhibit 1, y se le ha dado una copia a las partes con esta decisión. Cualquier parte que se oponga a la admisión de EAB Exhibit 1 tiene que someter su objeción a esta oficina por escrito, y tiene que incluir la base de su objeción, entre diez días de cuando esta decisión fue enviada. OAR 471-041-0090(2). A menos que su objeción sea recibida y afirmada, el hecho reconocido permanecerá en el expediente.*

FINDING OF FACT: (1) Order No. 23-UI-212859, mailed to claimant on January 18, 2023, 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. 23-UI-212859 at 3. Order No. 23-UI-212859 also provided the above information translated in Spanish. Order No. 23-UI-212859 at 4. Order No. 23-UI-212859 also stated on its Certificate of Mailing, “Any party may appeal this Order by filing a Request for Review with the Employment Appeals Board no later than February 7, 2023.” This information was translated in Spanish on the Certificate of Mailing.

CONCLUSIONS AND REASONS: Claimant’s late application for review of Order No. 23-UI-212859 is dismissed.

CONCLUSIONES Y RAZONES: *Se rechaza la aplicación tardía para revisión de la Orden No. 23-UI-212859 presentada por la reclamante.*

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. 23-UI-212859 was due by February 7, 2023. Because claimant did not file their application for review until July 18, 2024, the application for review was late. Claimant provided a written statement with the application for review. However, claimant’s written statement did not describe the circumstances that prevented her from filing the application for review on time. Claimant stated that she asked for help from the Department and that she was out of the country. EAB Exhibit 1. However, claimant did not explain why the circumstances she described prevented her from filing a timely application for review, or why she waited until July 2024 to file an application for review of Order No. 23-UI-212859. The questionnaire responses do not show when claimant left the United States, what measures claimant took to address mail received from the Department or OAH while she was out of the country, or what date claimant returned to the United States and could review her mail from 2022 and 2023. Claimant has not shown that she had good cause to extend the filing period for an application for review in this case, or that her late application for review filed on July 18, 2024, occurred within the 7-day “reasonable time” period after the circumstances that prevented timely filings ceased to exist. Claimant’s late application for review must, therefore, be dismissed. Accordingly, claimant did not show good cause for the late application for review, and claimant’s late application for review is dismissed.

DECISION: The application for review filed July 18, 2024, is dismissed. Order No. 23-UI-212859 remains undisturbed. *La solicitud de revisión presentada en July 18, 2024 es rechazada. La Orden Judicial 23-UI-212859 permanece sin cambios.*

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

DATE of Service: August 5, 2024

FECHA de Envío de esta Decisión: 5 de agosto de 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. 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.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveymzmo.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.

NOTA: Usted puede apelar esta decisión presentando una solicitud de revisión judicial ante la Corte de Apelaciones de Oregon (Oregon Court of Appeals) dentro de los 30 días siguientes a la fecha de notificación indicada arriba. Vea ORS 657.282. Para obtener formularios e información, puede escribir a la Corte de Apelaciones de Oregon, Sección de Registros (Oregon Court of Appeals/Records Section), 1163 State Street, Salem, Oregon 97310 o visite el sitio web en courts.oregon.gov. En este sitio web, hay información disponible en español.

Por favor, ayúdenos mejorar nuestros servicios completando un formulario de encuesta sobre nuestro servicio de atención al cliente. Para llenar este formulario, puede visitar <https://www.surveygizmo.com/s3/5552642/EAB-Customer-Service-Survey>. Puede acceder a la encuesta usando una computadora, tableta, o teléfono inteligente. Si no puede llenar el formulario sobre el internet, puede comunicarse con nuestra oficina para una copia impresa de la encuesta.

NOTE: The Department may defer recovery or completely waive the overpaid amount if certain standards are met. To make a request for Waiver of Overpayment Recovery, call 503-947-1995 or email OED_Overpayment_unit@employ.oregon.gov . You must submit waiver applications that correspond to the program for which you were overpaid benefits. **If you were overpaid benefits under both state and federal benefits programs, you will need to file two separate waiver applications. To access a State UI Overpayment Waiver application go online to <https://unemployment.oregon.gov/waivers> and click the link for “State UI Overpayment Waiver”. To access a Federal Program Overpayment Waiver application go online to <https://unemployment.oregon.gov/waivers> and click the link for “Federal Program Overpayment Waiver”.**

*NOTA: El Departamento puede posponer la recuperación o renunciar por completo al sobrepago si se cumplen ciertos estándares. Para hacer una solicitud de exención de recuperación de sobrepago, llame al 503-947-1995 o envíe un correo electrónico a OED_Overpayment_unit@employ.oregon.gov . Debe presentar solicitudes de exención que correspondan al programa por el cual se le pagaron los beneficios en exceso. **Si se le pagaron beneficios en exceso bajo los programas de beneficios estatales y federales, deberá presentar dos solicitudes de exención por separado.** Para acceder a una solicitud de exención de sobrepago de beneficios de desempleo estatal, vaya en línea para <https://unemployment.oregon.gov/waivers> y haga clic en el enlace “State UI Overpayment Waiver”. Para acceder a una solicitud de exención de sobrepago del programa federal, vaya en línea para <https://unemployment.oregon.gov/waivers> y haga clic en el enlace “Exención de sobrepago del programa federal”.*



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 الاستئناف 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.

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