

EMPLOYMENT APPEALS BOARD DECISION
2024-EAB-0588-R

Request for Reconsideration Dismissed
EAB Decision 2024-EAB-0588 and Order No. 24-UI-258788 Remain Undisturbed

PROCEDURAL HISTORY AND FINDINGS OF FACT: On May 15, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit work without good cause and was disqualified from receiving unemployment insurance benefits effective April 7, 2024 (decision # L0004052559). Claimant filed a timely request for hearing. On July 9, 2024, ALJ Gutman conducted a hearing, and on July 11, 2024, issued Order No. 24-UI-258788, modifying decision # L0004052559 by concluding that claimant voluntarily quit work without good cause and was disqualified from receiving benefits effective March 24, 2024.¹ On July 31, 2024, Order No. 24-UI-258788 became final without claimant having filed an application for review with the Employment Appeals Board (EAB). On August 8, 2024, claimant filed a late application for review of Order No. 24-UI-258788 with EAB.²

On August 20, 2024, EAB issued EAB Decision 2024-EAB-0588, dismissing claimant's application for review as late without good cause and leaving Order No. 24-UI-258788 undisturbed, but issuing the dismissal without prejudice and subject to claimant filing a request for reconsideration. On August 21, 2024, claimant sent an email to EAB, which EAB construed as a timely request for reconsideration of EAB Decision 2024-EAB-0588. This decision is issued pursuant to EAB's authority under ORS. 657.290(3).

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 request for

¹ Although Order No. 24-UI-258788 stated that it affirmed decision # L0004052559, it modified that decision by changing the effective date of the disqualification from April 7, 2024, to March 24, 2024. Order No. 24-UI-258788 at 4.

² Claimant's application for review of Order No. 24-UI-258788 was an August 8, 2024, email claimant had sent to the Office of Administrative Hearings (OAH) and to the Department's director. Since an application for review may be filed by electronic means with OAH and given that it was possible to view the email as expressing an intent to appeal Order No. 24-UI-258788, the email was treated as an application for review of Order No. 24-UI-258788. See OAR 471-041-0060(1)-(2) (May 13, 2019).

reconsideration, which consists, collectively, of an August 21, 2024, email from claimant with an attached email from an OAH representative, and of a September 9, 2024, email from claimant with 81 attached pages of miscellaneous documents. The August 21, 2024, email and attachment have been marked as EAB Exhibit 2 and the September 9, 2024, email and attachments have been marked as EAB Exhibit 3. Copies of EAB Exhibit 2 and EAB Exhibit 3 have been provided to the parties with this decision. Any party that objects to our admitting EAB Exhibit 2 and EAB Exhibit 3 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 exhibits will remain in the record.

CONCLUSIONS AND REASONS: Claimant’s request for reconsideration of EAB Decision 2024-EAB-0588 is dismissed. EAB Decision 2024-EAB-0588 and Order No. 24-UI-258788 remain undisturbed.

ORS 657.290(3) authorizes the Employment Appeals Board to reconsider any previous decision of the EAB, including “the making of a new decision to the extent necessary and appropriate for the correction of previous error of fact or law.” “Any party may request reconsideration to correct an error of material fact or law, or to explain any unexplained inconsistency with Employment Department rule, or officially stated Employment Department position, or prior Employment Department practice.” OAR 471-041-0145(1) (May 13, 2019). The request is subject to dismissal unless it includes a statement that a copy was provided to the other parties, and is filed on or before the 20th day after the decision sought to be reconsidered was mailed. OAR 471-041-0145(2).

On August 20, 2024, EAB dismissed claimant’s late application for review without prejudice and subject to claimant filing a timely request for reconsideration within 20 days after EAB’s dismissal decision was issued. *See* EAB Decision 2024-EAB-0588. The decision explained that claimant’s application for review of Order No. 24-UI-258788 was late, but that the deadline for filing the application for review may be extended a reasonable time upon a showing of good cause. EAB Decision 2024-EAB-0588 at 2. The decision further stated that if claimant believed she had good cause and filed her late application for review within a reasonable time, she might wish to file a request for reconsideration. EAB Decision 2024-EAB-0588 at 2. Then, EAB Decision 2024-EAB-0588 listed the elements claimant needed to fulfill in order for her request for reconsideration to be successful. EAB Decision 2024-EAB-0588 at 2. This included that claimant include a statement on the request for reconsideration declaring that she sent a copy of the request to the other party. EAB Decision 2024-EAB-0588 at 2. This also included that claimant provide additional specific details about the reason she did not file her application for review of Order No. 24-UI-258788 by the July 31, 2024, deadline. EAB Decision 2024-EAB-0588 at 2.

Claimant sent emails to EAB On August 21, 2024, and September 9, 2024, each with attachments, which EAB construed, collectively, as a timely request for reconsideration of EAB Decision 2024-EAB-0588. *See* EAB Exhibit 2; EAB Exhibit 3. However, claimant’s request for reconsideration did not include a statement declaring that she sent a copy of the request to the other party, Integrity Logistics, Inc. Claimant also failed to provide any specific details in the request for reconsideration about the reason she failed to file her application for review of Order No. 24-UI-258788 by the July 31, 2024, deadline.

Given that the request for reconsideration did not include a statement declaring that claimant sent a copy of the request to the other party, the request for reconsideration does not meet the requirements set forth in OAR 471-041-0145. The request for reconsideration is, therefore, dismissed. Even if claimant's request for reconsideration had met the requirements set forth in OAR 471-041-0145, such that reconsideration would be allowed, EAB Decision 2023-EAB-0588 would be adhered to on reconsideration. This is so because claimant failed to provide information sufficient to support good cause to allow a late appeal of Order No. 24-UI-258788 because claimant did not provide any specific details about the reason they failed to file their application for review of Order No. 24-UI-258788 by the July 31, 2024, deadline.

Because claimant's request for reconsideration does not meet the requirements set forth in OAR 471-041-0145, claimant's request for reconsideration is dismissed.

DECISION: Claimant's request for reconsideration filed August 21, 2024, is dismissed. EAB Decision 2024-EAB-0588 and Order No. 24-UI-258788 remain undisturbed.

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

DATE of Service: September 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. 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.surveygizmo.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.



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.

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