

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0595**

*Late Application for Review Dismissed*

**PROCEDURAL HISTORY:** On September 19, 2022, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged by the employer for misconduct and disqualified from receiving benefits effective August 21, 2022 (decision # 121051). On October 11, 2022, decision # 121051 became final without claimant having filed a request for hearing. On October 20, 2022, claimant filed a late request for hearing. ALJ Kangas considered claimant's request, and on February 15, 2023, issued Order No. 23-UI-216121, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by March 1, 2023. On February 24, 2023, claimant filed a timely response to the appellant questionnaire.

On March 1, 2023, the Office of Administrative Hearings (OAH) mailed a letter stating that Order No. 23-UI-216121 was vacated and that a new hearing would be scheduled to determine whether to allow claimant's late request for hearing and, if so, the merits of decision # 121051. On March 16, 2023, ALJ Buckley conducted a hearing and issued Order No. 23-UI-219276, dismissing claimant's request for hearing as late without good cause, leaving decision # 121051 undisturbed. On April 5, 2023, Order No. 23-UI-219276 became final without claimant having filed an application for review with the Employment Appeals Board (EAB). On August 12, 2024, claimant filed a late application for review of Order No. 23-UI-219276 with EAB.

**FINDINGS OF FACT:** (1) Order No. 23-UI-219276, mailed to claimant on March 16, 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. 24-UI-219276 at 3. Order No. 24-UI-219276 also stated on its Certificate of Mailing, "Any appeal from this Order must be filed on or before April 5, 2023, to be timely."

(2) At some point after March 16, 2023, but before August 12, 2024, claimant had "a family member pass, a friend who killed themse[l]ves," and "a different friend die." EAB Exhibit 1 at 1.

(3) On August 12, 2024, claimant filed a late application for review of Order No. 23-UI-219276 with EAB.

**CONCLUSIONS AND REASONS:** Claimant’s late application for review of Order No. 23-UI-219276 is dismissed.

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-219276 was due by April 5, 2023. Because claimant did not file her application for review until August 12, 2024, the application for review was late.

Claimant provided a written statement with the application for review. *See* EAB Exhibit 1 at 1. In it, claimant stated that the circumstances that caused her to file her application for review late were that she “didn’t think about it and spaced it” because she had “a family member pass, a friend who killed themse[l]ves,” and “a different friend die.” EAB Exhibit 1 at 1. Claimant stated that these three individuals passed away within “a 2 week time frame” of one another. EAB Exhibit 1 at 1. Claimant stated that the deaths of the three individuals prevented her from filing on time because she was concerned about her family and the families of her two friends, and she needed “to be there for them to talk to or listen as they grieved.” EAB Exhibit 1 at 1. Claimant stated that the circumstances that prevented her from filing a timely application for review ceased on August 12, 2024, but did not explain why they ceased on that date. EAB Exhibit 1 at 1. Likewise, while approximately one year and five months passed between when Order No. 23-UI-219276 was mailed and when claimant filed her late application for review, claimant’s statement does not indicate when during that period her family member and two friends passed away.

Apart from stating that “It’s never easy for anyone to lose not only 1 person but 3[,]” claimant’s written statement does not attribute her untimely filing to her own personal grief or emotional difficulties. EAB Exhibit 1 at 1. To the extent that this statement was meant to convey that claimant’s own emotional difficulties contributed to her untimely filing, the statement is too vague and indefinite to establish good cause, as claimant did not specify when the loss of the family member and two friends occurred or explain how any emotional difficulties she experienced due to her losses caused the delay in filing her application for review. Claimant therefore failed to show that emotional difficulties resulting from the loss of her loved ones constituted good cause to extend the deadline to file an application for review of Order No. 23-UI-219276.

Claimant’s written statement suggested that concern for her family and the families of her friends, the need to comfort them as they grieved, and the fact that there was “a lot going on planning funerals etc.” caused claimant to not think about filing an application for review “and space it.” EAB Exhibit 1 at 1. However, again, claimant does not specify precisely when she experienced the loss of her family member and two friends, other than that they passed within “a 2 week time frame” of one another. EAB Exhibit 1 at 1. Claimant does not indicate the extent of her involvement in making funeral arrangements

for the individuals she lost or how much of her time and attention were devoted to comforting her family and the families of her friends. Though claimant asserted that the circumstances that prevented her from filing a timely application for review ceased on August 12, 2024, she never explained precisely how those circumstances prevented her from filing before August 12, 2024, or what happened on that date that caused the circumstances to cease. Claimant's written statement does not assert or show that responsibilities imposed upon her following the loss of her loved ones or the fact that she had to comfort others rendered her unable to file an application for review during the whole of the approximately one year and five-month period that elapsed between when Order No. 23-UI-219276 was mailed to the date claimant filed a late application for review. Claimant failed to show that practical responsibilities imposed upon her following the loss of her loved ones or the fact that she had to comfort others constituted good cause to extend the deadline to file an application for review of Order No. 23-UI-219276.

For the above reasons, 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 August 12, 2024, is dismissed. Order No. 23-UI-219276 remains undisturbed.

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

**DATE of Service:** August 23, 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**

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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