

EMPLOYMENT APPEALS BOARD DECISION
2024-EAB-0602

Reversed
Requests for Hearing Allowed
Merits Hearings Required

PROCEDURAL HISTORY AND FINDINGS OF FACT: On June 27, 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 effective June 2, 2024 (decision # L0004829234). Also on June 27, 2024, the Department served notice of an administrative decision concluding that claimant had failed to provide information to the Department and was ineligible for benefits effective June 23, 2024 (decision # L0004876270).¹ Claimant filed timely requests for hearing on decisions # L0004829234 and L0004876270. On July 27, 2024, claimant withdrew their requests for hearing. On July 30, 2024, ALJ S. Lee issued Order No. 24-UI-260834, dismissing claimant's request for hearing on decision # L0004829234 because claimant withdrew their request for hearing. On July 31, 2024, ALJ S. Lee issued Order No. 24-UI-260874, dismissing claimant's request for hearing on decision # L0004876270 because claimant withdrew their request for hearing.

On August 16, 2024, claimant filed applications for review of Orders No. 24-UI-260834 and 24-UI-260874 with the Employment Appeals Board (EAB). Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 24-UI-260834 and 24-UI-260874. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2024-EAB-0601 and 2024-EAB-0602).

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 written withdrawal of their requests for hearing, claimant's written statement enclosed with their applications

¹ Decision # L0004876270 stated that claimant was denied benefits effective June 26, 2024. However, as benefit weeks begin on Sundays and June 26, 2024 was a Wednesday, it is presumed that the Department intended to deny claimant benefits effective June 23, 2024.

for review, and two mailings that the Department sent to claimant on August 16, and 21, 2024.² 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.

CONCLUSIONS AND REASONS: Orders No. 24-UI-260834 and 24-UI-260874 are set aside, and claimant is entitled to hearings on the merits of decisions # L0004829234 and L0004876270.

Under ORS 657.270(7)(a) and OAR 471-040-0035(1) (August 1, 2004), an administrative law judge may order that a request for hearing be dismissed if the request has been withdrawn by the party who filed the request.

Claimant filed timely requests for hearing on decisions # L0004829234 and L0004876270, but withdrew the requests on July 27, 2024, leading to the dismissal of claimant's requests. The record shows that claimant withdrew their requests because the issues in these matters, regarding the requirements that claimant register for work and verify their identity, had "been resolved and [claimant's] benefits were approved." EAB Exhibit 1 at 1. In their statement enclosed with the applications for review, claimant further explained that on July 10, 2024, after they filed their requests for hearing but prior to receiving the notices of hearing set for these matters, they learned that their benefits had been "approved" regarding these matters, and that they started receiving benefits. EAB Exhibit 1 at 2. Claimant further explained that after the issuance of the orders under review, claimant received "letter L0005781074 again saying that [they] did not confirm [their] identity." EAB Exhibit 1 at 2. In that statement, claimant also re-requested a hearing. EAB Exhibit 1 at 2.

The record also shows that the Department mailed two decisions to claimant, on August 16 and 21, 2024. The first of those, letter ID # L0005781074 benefit issue # 352-N2V6-RVNT, denied claimant benefits effective June 23, 2024, because they had allegedly not completed their identity verification requirements. EAB Exhibit 1 at 4. The second, letter ID # L0005652423, indicated that a letter mailed to claimant on "July 26, 2024," about "not completing the Welcome Process and the ID Verification Process," was canceled because claimant had "completed both processes on June 26, 2024." EAB Exhibit 1 at 5. This second decision seems to suggest that the apparent denial issued on August 16, 2024, has been reversed, although the decision itself indicated that the decision it was reversing had been mailed on July 26, 2024, rather than August 16, 2024. It is not clear from these decisions whether either of decisions # L0004829234 and L0004876270 (the decisions at issue in these matters) remain in effect.

Claimant's above explanations, the seemingly incorrect information given to claimant by the Department after they filed their requests for hearing, and the subsequent confusion created by the August 2024 decisions all suggest that claimant's decision to withdraw their requests for hearing was premised on misleading information they received from the Department, or a misunderstanding of that information, and that claimant would not have withdrawn their requests if they were aware of the effects of doing so. Because claimant withdrew their requests apparently without an understanding of the facts

² EAB has taken notice of the documents that the Department mailed to claimant in August 2024, which are contained in Employment Department records. OAR 471-041-0090(1).

regarding their eligibility or the effects of withdrawing the requests, claimant's withdrawals should not be given effect. Therefore, claimant's requests for hearing are allowed, and claimant is entitled to hearings on the merits of decisions # L0004829234 and L0004876270.

DECISION: Orders No. 24-UI-260834 and 24-UI- 260874 are set aside, as outlined above.

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

DATE of Service: September 4, 2024

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Orders No. 24-UI-260834 and 24-UI- 260874 or return these matters to EAB. Only timely applications for review of the subsequent orders will cause these matters 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

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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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