

EMPLOYMENT APPEALS BOARD DECISION
2024-EAB-0625

Affirmed
Late Requests for Hearing Dismissed

PROCEDURAL HISTORY: On May 16, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit work without good cause and was disqualified from receiving benefits effective April 7, 2024 (decision # L0004101911). Also on May 16, 2024, the Department served notice of an administrative decision concluding that claimant was not able to work and ineligible for benefits for the week of April 7 through 13, 2024 (week 15-24) and until the reason for the denial ended (L0004125361). On June 5, 2024, decisions L0004101911 and L0004125361 became final without claimant having filed requests for hearing.

On July 2, 2024, claimant filed a late request for hearing on each decision. ALJ Kangas considered the requests, and on July 11 and July 18, 2024, respectively, issued Orders No. 24-UI-258785 and 24-UI-259583, dismissing the requests as late, subject to claimant's right to renew the requests by responding to an appellant questionnaire by July 25 and August 1, 2024. On July 31 and August 7, 2024, respectively, Orders No. 24-UI-258785 and 24-UI-259583 became final without claimant having filed a response to the appellant questionnaire or applications for review with the Employment Appeals Board (EAB).

On August 10, 2024, claimant filed a late response to the appellant questionnaire. ALJ Kangas reviewed the response, and on August 14, 2024, issued Orders No. 24-UI-262603 and 24-UI-262616, concluding that the questionnaire response would not be considered in either matter because it was filed late, and re-dismissing claimant's late requests for hearing. On August 27, 2024, claimant filed applications for review of Orders No. 24-UI-258785 and 24-UI-259583 with EAB.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 24-UI-262603 and 24-UI-262616. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2024-EAB-0624 and 2024-EAB-0625).

EVIDENTIARY MATTER: Claimant’s appellant questionnaire response had not been filed as of the dates Orders No. 24-UI-258785 and 24-UI-259583 became final. The late questionnaire response was marked for identification as Exhibit 3 in each case but was not considered as evidence by the ALJ and, as such, is not evidence in the consolidated hearing record. Claimant did not show that factors or circumstances beyond claimant’s reasonable control prevented them from filing the appellant questionnaire response prior to the orders becoming final. Accordingly, under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB did not consider the late appellant questionnaire response when reaching this decision.

FINDINGS OF FACT: (1) Decision # L0004101911, mailed to claimant’s address on file with the Department on May 16, 2024, 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 June 5, 2024.” Order No. 24-UI-262603, Exhibit 1 at 2.

(2) Decision # L0004125361, mailed to claimant’s address on file with the Department on May 16, 2024, 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 June 5, 2024.” Order No. 24-UI-262616, Exhibit 1 at 2.

(3) On July 2, 2024, claimant filed requests for hearing on decisions L0004101911 and L0004125361.

CONCLUSIONS AND REASONS: Claimant’s late requests for hearing are dismissed.

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 requests for hearing on decisions L0004101911 and L0004125361 were due by June 5, 2024. Claimant filed their requests for hearing on July 2, 2024, and therefore late.

Claimant was given the opportunity to explain what factors prevented timely filing by responding to an appellant questionnaire within fourteen days of the dates the orders dismissing the requests were mailed. Order No. 24-UI-258785 at 1; Order No. 24-UI-259583 at 1. However, claimant failed to respond by that deadline, filing a response only after the dismissal orders became final. Claimant did not explain why the information requested in the questionnaire could not have been provided while the matters were within the jurisdiction of the Office of Administrative Hearings (OAH). Therefore, as explained above, EAB is prevented by rule from considering the questionnaire response because it is new evidence that was not considered by the ALJ. The record otherwise fails to show why the requests for hearing were filed late. Accordingly, good cause does not exist to extend the deadline for timely filing of the requests for hearing.

For these reasons, claimant’s late requests for hearing on decisions L0004101911 and L0004125361 are dismissed.

DECISION: Orders No. 24-UI-258785 and 24-UI-259583 are affirmed.

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

DATE of Service: September 12, 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.

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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.

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