

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0639**

*Reversed*  
*Request for Hearing Timely Filed*  
*Merits Hearing Required*

**PROCEDURAL HISTORY:** On April 4, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause and was disqualified from receiving benefits effective January 28, 2024 (decision # L0003434737). On April 24, 2024, claimant filed a timely request for hearing that the Department did not process as a request for hearing. On May 31, 2024, claimant filed a second, late, request for hearing on decision # L0003434737. ALJ Kangas considered claimant's May 31, 2024, request, and on August 14, 2024, issued Order No. 24-UI-262610, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by August 28, 2024. On September 3, 2024, claimant filed a late response to the appellant questionnaire and a timely application for review of Order No. 24-UI-262610 with the Employment Appeals Board (EAB).

**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 response to the appellant questionnaire and documents attached therewith, 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.

**FINDINGS OF FACT:** (1) On April 4, 2024, the Department mailed decision # L0003434737 to claimant's address on file with the Department. Decision # L0003434737 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 **April 24, 2024.**" Exhibit 1 at 2 (emphasis in original).

(2) On April 24, 2024, claimant sent a message to the Department via Frances Online. In that message, claimant stated that they were "writing to express [their] strong disagreement with the decision... regarding [their] unemployment claim." EAB Exhibit 1 at 2. Claimant also stated in that message, "I

respectfully request a hearing to present my case for voluntary separation from employment[.]” EAB Exhibit 1 at 2. Claimant also identified in their statement the employer from whom they separated. EAB Exhibit 1 at 2. Claimant explained that they filed their request for hearing in this manner because “it was very unclear on the Frances system how to” file a request for hearing. EAB Exhibit 1 at 1.

(3) On May 10, 2024, a Department representative responded to claimant’s April 24, 2024, message and provided claimant instructions for filing a request for hearing via Frances Online. EAB Exhibit 1 at 3. Thereafter, claimant filed a second, late, request for hearing on decision # L0003434737.

**CONCLUSIONS AND REASONS:** Claimant filed a timely request for hearing on decision # L0003434737. Order No. 24-UI-262610 therefore is reversed and this matter remanded for a hearing on the merits of decision # L0003434737.

ORS 657.269 states:

(1)(a) Unless the claimant or one of the employing units or agents of the employing units entitled to notice under ORS 657.267 or 657.268 files a request for hearing upon the decision with the Director of the Employment Department in a timely manner as determined under subsection (2) of this section, the decision is final and benefits must be paid or denied accordingly.

\* \* \*

(2) A request for hearing upon the decision under subsection (1) of this section must be filed within 20 days after delivery of the notice required under ORS 657.267 or 657.268 or, if mailed, within 20 days after the notice was mailed to the party’s last-known address.

OAR 471-040-0005 (July 15, 2018) states:

(1) A Request for hearing may be filed on forms provided by the Employment Department or similar offices in other states. Use of the form is not required provided the party specifically requests a hearing or otherwise expresses a present intent to appeal and it can be determined what issue or decision is being appealed.

\* \* \*

(4) The filing date for any request for hearing shall be determined as follows:

\* \* \*

(d) When filed by e-mail, the date of filing shall be the date of delivery, as evidenced by the receipt date on the Employment Department’s e-mail system, according to Pacific Time.

(e) When filed through the secured website, the date of filing shall be the date indicated in the confirmation e-mail sent to the requestor by the Employment Department, according to Pacific Time.

(f) When filed by any other means, the date of filing shall be the date of delivery, as evidenced by the receipt date stamped or written by the employee of the Employment Department who receives the document.

\* \* \*

(emphasis in original)

The request for hearing on decision # L0003434737 was due by April 24, 2024. The order under review dismissed claimant's May 31, 2024, request for hearing on that decision as late. Order No. 24-UI-262610 at 2. However, the record shows that claimant filed a timely request for hearing on decision # L0003434737 on April 24, 2024. On that date, claimant sent a message to the Department via Frances Online, explaining that they disagreed with the decision to disqualify them from benefits based on having quit working for an employer they identified in the message, and requested a hearing on that decision.

The record suggests that claimant's April 24, 2024, message may not have comported with the process that the Department has designated for hearing requests filed via Frances Online. However, claimant's message contained sufficient information to constitute a request for hearing on decision # L0003434737 because it indicated that claimant "specifically request[ed] a hearing or otherwise expresse[ed] a present intent to appeal and it can be determined what issue or decision is being appealed." Given the specificity of claimant's message, the issue or decision being appealed was reasonably ascertainable by the Department. Therefore, claimant's April 24, 2024, message to the Department constituted a request for hearing. As claimant sent that message within the timely filing period, claimant's request for hearing was timely, and claimant is therefore entitled to a hearing on the merits of decision # L0003434737.

**DECISION:** Order No. 24-UI-262610 is set aside, and this matter remanded for further proceedings consistent with this order.

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

**DATE of Service: September 23, 2024**

**NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Order No. 24-UI-262610 or return this matter to EAB. Only a timely application for review of the subsequent order will cause this matter 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**

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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