

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0660**

*Affirmed*  
*Late Request for Hearing Dismissed*

**PROCEDURAL HISTORY:** On April 11, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was not available for work for the week of March 10, 2024, through March 16, 2024 (week 11-24) and therefore was not eligible for unemployment insurance benefits for that week and until the reason for the denial had ended (decision # L0003564001). On May 1, 2024, decision # L0003564001 became final without claimant having filed a request for hearing.

On May 10, 2024, claimant filed a late request for hearing on decision # L0003564001. ALJ Kangas considered claimant's request, and on July 17, 2024, issued Order No. 24-UI-259338, dismissing claimant's request for hearing as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by July 31, 2024. On August 6, 2024, Order No. 24-UI-259338 became final without claimant having filed a response to the appellant questionnaire or an application for review with the Employment Appeals Board (EAB).

On August 23, 2024, claimant filed a late response to the appellant questionnaire.<sup>1</sup> ALJ Kangas reviewed the response, and on August 29, 2024, issued Order No. 24-UI-264287, concluding that the questionnaire response would not be considered because it was filed late, canceling Order No. 24-UI-259338, re-dismissing claimant's late request for hearing, and leaving decision # L0003564001 undisturbed. On September 14, 2024, claimant filed an application for review with EAB.

**EVIDENTIARY MATTER:** Claimant's appellant questionnaire response was not filed by the date Order No. 24-UI-259338 became final, August 6, 2024. The late questionnaire response was marked for identification as Exhibit 3 but was not considered as evidence by the ALJ and, as such, is not evidence in the hearing record. Claimant did not show that factors or circumstances beyond claimant's reasonable

<sup>1</sup> Although the appellant questionnaire response was dated August 5, 2024, it was filed by mail with a postmark date of August 23, 2024. When requests for hearing and applications for review are filed by mail, the postmark is considered the filing date. See OAR 471-040-0005(4)(b) (July 15, 2018) and OAR 471-041-0065(1)(b) (May 13, 2019). Therefore, the August 23, 2024 postmark date is treated as the date of filing of the appellant questionnaire response.

control prevented them from filing the appellant questionnaire response prior to Order No. 24-UI-259338 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 # L0003564001, mailed to claimant’s address on file with the Department on April 11, 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 **May 1, 2024.**” Exhibit 1 at 1 (emphasis in original).

(2) On May 10, 2024, claimant filed a request for hearing on decision # L0003564001.

**CONCLUSIONS AND REASONS:** Claimant’s late request for hearing is 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 request for hearing on decision # L0003564001 was due by May 1, 2024. Because claimant did not file their request for hearing until May 10, 2024, the request for hearing was late.

Claimant was given the opportunity to explain what factors prevented timely filing by responding to an appellant questionnaire within fourteen days of the date the order dismissing the request was mailed. Order No. 24-UI-259338 at 1. However, claimant did not respond by that deadline, and instead filed a response only after the dismissal order became final. Claimant did not explain why the information requested in the questionnaire could not have been provided while the matter was 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 request for hearing was filed late. Accordingly, good cause does not exist to extend the deadline for timely filing of the request for hearing.

For these reasons, claimant’s late request for hearing on decision # L0003564001 is dismissed.

**DECISION:** Order No. 24-UI-264287 is affirmed.

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

**DATE of Service:** September 30, 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.

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