

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0746**

*Reversed & Remanded*

**PROCEDURAL HISTORY:** On April 15, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant failed to provide information to verify their identity in accordance with the Department's rules and was ineligible for benefits effective April 7, 2024 (decision # L0003642184). Claimant filed a timely request for hearing. On June 28, 2024, notice was mailed that a hearing had been scheduled for July 12, 2024. On July 12, 2024, claimant failed to appear for the hearing, and ALJ Nyberg issued Order No. 24-UI-258868, dismissing claimant's request for hearing due to their failure to appear. On July 18, 2024, claimant filed a timely request to reopen the hearing. ALJ Kangas considered the request, and on October 7, 2024 issued Order No. 24-UI-268511, denying the request and leaving Order No. 24-UI-258868 undisturbed. On October 17, 2024, claimant filed an application for review of Order No. 24-UI-268511 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 the statement included with claimant's application for review and has been marked as EAB Exhibit 1, and a copy provided to the parties with this decision. This evidence is necessary to complete the record, as Order No. 24-UI-268511's Certificate of Service stated that additional information provided by October 21, 2024 would be considered, and the statement was filed on October 17, 2024. 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.

**FINDING OF FACT:** (1) On June 28, 2024, notice was mailed to claimant's address of record on file with the Office of Administrative Hearings (OAH) that a hearing had been scheduled for July 12, 2024. Claimant did not receive the hearing notice until July 13, 2024, and failed to attend the hearing for that reason.

**CONCLUSIONS AND REASONS:** Order No. 24-UI-268511 is set aside and the matter remanded for a hearing on whether to allow claimant's request to reopen the July 12, 2024 hearing and, if so, the merits of decision # L0003642184.

ORS 657.270(5) provides that any party who failed to appear at a hearing may request to reopen the hearing, and the request will be allowed if it was filed within 20 days of the date the hearing decision was issued and shows good cause for failing to appear. “Good cause” exists when the requesting party’s failure to appear at the hearing arose from an excusable mistake or from factors beyond the party’s reasonable control. OAR 471-040-0040(2) (February 10, 2012). The party requesting reopening shall set forth the reason(s) for missing the hearing in a written statement, which OAH shall consider in determining whether good cause exists for failing to appear at the hearing. OAR 471-040-0040(3).

OAR 471-040-0040(6) provides that OAH will treat as a request to reopen the hearing any application for review that a party files with the Employment Appeals Board or the Employment Department, where the filing party failed to appear at the hearing that led to the decision on appeal, unless the applicant specifically states in the application that the applicant does not wish to have the case reopened.

On July 18, 2024, claimant filed an application for review of Order No. 24-UI-258868 that was treated as a timely request to reopen the July 12, 2024 hearing under OAR 471-040-0040(6). On October 17, 2024, claimant filed a written statement explaining why they missed the July 12, 2024 hearing. Because this statement was filed by the deadline stated in Order No. 24-UI-268511’s Certificate of Service for providing additional information, claimant has met the threshold requirements for consideration of their request to reopen.

Claimant wrote in their statement that they missed the hearing because they did not receive the hearing notice “until the day after the hearing.” EAB Exhibit 1 at 1. If claimant’s delay in receipt of the notice was caused by circumstances beyond their reasonable control, good cause may exist for claimant missing the hearing. However, claimant’s statement also mentioned being “out of the country” at some point while the hearing request was pending, and it is unclear from the record as developed why receipt of the hearing notice was delayed. EAB Exhibit 1 at 1. Further development of the record is therefore warranted.

On remand, inquiry should be made into the potential causes for claimant’s delayed receipt of the hearing notice, including when claimant was away from their mailing address of record, whether claimant made arrangements for the receipt of time-sensitive mail while absent, when the mail was last checked prior to July 13, 2024, and whether any other factors could explain claimant’s delayed receipt of the notice.

For these reasons, Order No. 24-UI-268511 is set aside and the matter remanded for a hearing on whether to allow claimant’s request to reopen the July 12, 2024 hearing and, if so, the merits of decision # L0003642184.

**DECISION:** Order No. 24-UI-268511 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:** November 1, 2024

**NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Order No. 24-UI-268511 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 الاستئناف 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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