

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0753**

*Affirmed*  
*Request to Reopen Denied*

**PROCEDURAL HISTORY:** On May 9, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant failed to register for work and was ineligible for benefits effective April 21, 2024 (decision # L0004049065).<sup>1</sup> Claimant filed a timely request for hearing. On August 13, 2024, notice was mailed to claimant that a hearing was scheduled for August 27, 2024. On August 27, 2024, claimant failed to appear at the hearing, and ALJ Janzen issued Order No. 24-UI-263875, dismissing claimant's request for hearing due to their failure to appear. On August 28, 2024, claimant filed a timely request to reopen the hearing. ALJ Kangas considered the request, and on October 10, 2024, issued Order No. 24-UI-268928, denying claimant's request to reopen the hearing and leaving Order No. 24-UI-263875 undisturbed. On October 26, 2024, claimant filed an application for review of Order No. 24-UI-268928 with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** Claimant's argument contained information that was not part of the record while the matter was pending at the Office of Administrative Hearings (OAH), or relevant and material to EAB's determination of whether to allow claimant's request to reopen the August 27, 2024, hearing. Under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB considered claimant's argument to the extent it was based on the record.

**FINDINGS OF FACT:** (1) On August 13, 2024, OAH mailed claimant notice that a telephone hearing was scheduled for August 27, 2024. Claimant received the notice of hearing prior to the hearing date. The hearing notice stated, "At the time of the hearing, you must call 1-877-622-4041. . . If you requested the hearing and you do not call **1-877-622-4041** at the time set for your hearing, the hearing will be dismissed." Exhibit 4 at 4 (emphasis in original).

(2) On August 27, 2024, claimant failed to appear at the hearing because they believed that a telephone call would be placed to them, rather than claimant having to call into the hearing.

<sup>1</sup> Decision # L0004049065 stated that the ineligibility period began April 26, 2024. However, because benefit weeks begin on Sundays and April 26, 2024 was a Friday, it is presumed the decision intended that the ineligibility period begin Sunday, April 21, 2024.

(3) On August 28, 2024, claimant filed a request to reopen the August 27, 2024, hearing that contained an explanation for why claimant failed to appear at the hearing.

**CONCLUSIONS AND REASONS:** Claimant’s request to reopen the August 27, 2024, hearing is denied.

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 the Office of Administrative Hearings (OAH) shall consider in determining whether good cause exists for failing to appear at the hearing. OAR 471-040-0040(3).

Claimant’s request to reopen the August 27, 2024, hearing was filed within 20 days of the date the order dismissing their request for hearing was issued, and contained an explanation for failing to appear at the hearing. Therefore, claimant’s request to reopen met the threshold requirements for consideration.

Claimant’s explanation for missing the hearing included with the request to reopen was, “I had noted on my calendar to EXPECT a call at 8:15. When the hour became 8:45, my wife and I consulted about the paperwork and realized that I was to MAKE a call at 8:15.” Exhibit 5 at 1 (emphasis in original). As the hearing notice instructed that claimant must call at the scheduled time to participate, and that claimant’s request for hearing would be dismissed if claimant failed to call, claimant has not shown that their failure to call into the hearing resulted from a circumstance beyond claimant’s reasonable control or an excusable mistake. Although claimant asserted that they failed to appear due to a mistake, it was not an “excusable mistake” within the meaning of the administrative rules because it did not, for example, raise a due process issue, and was not the result of inadequate notice, reasonable reliance on another, or the inability to follow directions despite substantial efforts to comply. Good cause has not been shown to reopen the hearing, and claimant’s request to reopen is denied.

**DECISION:** Order No. 24-UI-268928 is affirmed.

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

**DATE of Service:** November 4, 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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