

EMPLOYMENT APPEALS BOARD DECISION
2024-EAB-0761

Affirmed
Late Requests for Hearing Dismissed

PROCEDURAL HISTORY: On May 15, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was not actively seeking work during the week of May 5, 2024, through May 11, 2024 (week 19-24) and was therefore ineligible to receive unemployment insurance benefits for that week (decision # L0004259603). On June 4, 2024, the Department served notice of an administrative decision concluding that claimant was discharged for misconduct and was therefore disqualified from receiving benefits effective May 5, 2024 (decision # L0004369362). On June 11, 2024, the Department served notice of an administrative decision concluding that claimant was not actively seeking work during the week of June 2, 2024, through June 8, 2024 (week 23-24) and was therefore ineligible to receive benefits for that week (decision # L0004651596). On June 4, 2024, June 24, 2024, and July 1, 2024, decisions # L0004259603, L0004369362, and L0004651596, respectively, became final without claimant having filed requests for hearing on any of the decisions. On July 17, 2024, claimant filed late requests for hearing on all three decisions.

ALJ Scott considered the requests, and on September 5, 2024, issued Orders No. 24-UI-265057 and 24-UI-265055, dismissing claimant's late requests for hearing on decisions # L0004369362 and L0004651596, respectively, subject to claimant's right to renew the requests by responding to an appellant questionnaire by September 19, 2024. On September 6, 2024, ALJ Scott issued Order No. 24-UI-265063, dismissing claimant's late request for hearing on decision # L0004259603, subject to claimant's right to renew the request by responding to an appellant questionnaire by September 20, 2024. On September 12, 2024, claimant filed timely responses to the appellant questionnaire in each matter. ALJ Scott considered the responses, and on October 11, 2024, issued Orders No. 24-UI-269015, 24-UI-269012, and 24-UI-269010, cancelling Orders No. 24-UI-265063, 24-UI-265057, and 24-UI-265055, respectively, re-dismissing claimant's late requests for hearing on decisions # L0004259603, L0004369362, and L0004651596, respectively, and leaving those decisions undisturbed. On October 25, 2024, claimant filed applications for review of Orders No. 24-UI-269015, 24-UI-269012, and 24-UI-269010 with the Employment Appeals Board (EAB).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 24-UI-269015, 24-UI-269012, and 24-UI-269010. For case-tracking purposes, this decision is being issued in triplicate (EAB Decisions 2024-EAB-0762, 2024-EAB-0761, and 2024-EAB-0763).

FINDINGS OF FACT: (1) Decision # L0004259603, mailed to claimant’s address of record on file with the Department on May 15, 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 4, 2024.**” Order No. 24-UI-269015, Exhibit 1 at 2 (emphasis in original).

(2) Decision # L0004369362, mailed to claimant’s address of record on file with the Department on June 4, 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 24, 2024.**” Order No. 24-UI-269012, Exhibit 1 at 2 (emphasis in original).

(3) Decision # L0004651596, mailed to claimant’s address of record on file with the Department on June 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 **July 1, 2024.**” Order No. 24-UI-269010, Exhibit 1 at 2 (emphasis in original).

(4) Claimant received each administrative decision shortly after it was mailed. Claimant did not file a request for hearing on any of the decisions by the respective deadline because claimant “didn’t understand [the] process.” Exhibit 3 at 3, 7, 11.

(5) On July 17, 2024, claimant filed a late request for hearing on each administrative decision.

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. Under OAR 471-040-0010(1)(b)(B), “good cause” does not include not understanding the implications of a decision or notice when it is received.

The requests for hearing on decisions # L0004259603, L0004369362, and L0004651596 were due by June 4, 2024, June 24, 2024, and July 1, 2024, respectively. Because claimant did not file their requests for hearing until July 17, 2024, the requests were late.

Claimant wrote in their appellant questionnaire responses that they received decisions # L0004259603, L0004369362, and L0004651596 on May 15, 2024, June 4, 2024, and June 11, 2024, respectively. Exhibit 3 at 2, 6, 10. Claimant also wrote in the responses that, with respect to each decision, the reason for failing to file a request for hearing by the deadline was that claimant “didn’t understand [the] process.” Exhibit 3 at 3, 7, 11. As each administrative decision stated claimant’s right to appeal and the process by which to do so, it can reasonably be inferred that claimant did not understand the implications of failing to file a request for hearing by the deadline, rather than not understanding the

method by which to request a hearing. Per OAR 471-040-0010(1)(b)(B), “[n]ot understanding the implications of a decision or notice when it is received” is not good cause to extend the filing deadline. To the extent claimant’s failure to understand the appeal process was the result of 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. The record does not otherwise suggest that a factor beyond claimant’s reasonable control or an excusable mistake prevented timely filing of the requests for hearing. Accordingly, good cause has not been shown to extend the filing deadlines.

For these reasons, claimant’s late requests for hearing on decisions # L0004259603, L0004369362, and L0004651596 are dismissed.

DECISION: Orders No. 24-UI-269015, 24-UI-269012, and 24-UI-269010 are 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. 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.

Employment Appeals Board - 875 Union Street NE | Salem, OR 97311
 Phone: (503) 378-2077 | 1-800-734-6949 | Fax: (503) 378-2129 | TDD: 711
www.Oregon.gov/Employ/eab

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