

EMPLOYMENT APPEALS BOARD DECISION
2024-EAB-0780

Late Application for Review Dismissed

PROCEDURAL HISTORY: On November 18, 2021, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was not able to work or available for work from October 24, 2021, through November 13, 2021 (weeks 43-21 through 45-21) and until the reason for the denial ended (decision # 101237). Claimant filed a timely request for hearing.

On November 30, 2021, the Office of Administrative Hearings (OAH) served notice of a hearing scheduled for December 16, 2021, at 7:00 a.m. on decision # 101237. On December 16, 2021, claimant failed to appear for the hearing, and ALJ Ramey issued Order No. 21-UI-182079 dismissing the hearing request on decision # 101237 due to claimant's failure to appear. On January 4, 2022, claimant filed a request to reopen the December 16, 2021, hearing.

On February 27, 2023, OAH served notice of a hearing scheduled for March 15, 2023, at 7:15 a.m. on claimant's request to reopen and, if allowed, the merits of decision # 101237. On March 15, 2023, claimant failed to appear for the hearing, and ALJ Buckley issued Order No. 23-UI-219053 denying claimant's request to reopen due to claimant's failure to appear and leaving Order No. 21-UI-182079 and decision # 101237 undisturbed. On April 4, 2023, claimant filed a request to reopen the March 15, 2023, hearing.

On March 14, 2024, OAH served notice of a hearing scheduled for April 8, 2024, at 8:15 a.m. on claimant's request to reopen and, if allowed, the merits of decision # 101237. On April 8, 2024, claimant failed to appear for the hearing, and, on April 11, 2024, ALJ Lucas issued Order No. 24-UI-252033 denying claimant's request to reopen due to claimant's failure to appear and leaving Order No. 23-UI-219053 undisturbed. On May 1, 2024, Order No. 24-UI-252033 became final without claimant having filed an application for review or a request to reopen. On May 16, 2024, claimant filed a late request to reopen the April 8, 2024, hearing.

ALJ Kangas considered claimant's request, and on October 8, 2024, issued Order No. 24-UI-268600, denying claimant's request to reopen the April 8, 2024, hearing because the request was late without

showing good cause to extend the filing deadline. On October 28, 2024, Order No. 24-UI-268600 became final without claimant having filed an application for review with the Employment Appeals Board (EAB). On November 4, 2024, claimant filed a late application for review of Order No. 24-UI-268600 with EAB.

FINDING OF FACT: (1) Order No. 24-UI-268600, mailed to claimant on October 8, 2024, said, “You may appeal this decision by filing the attached form Application for Review with the Employment Appeals Board within 20 days of the date that this decision is mailed.” Order No. 24-UI-268600 at 4. Order No. 24-UI-268600 also said on its Certificate of Mailing, “Any appeal from this Order must be filed on or before October 28, 2024, to be timely.” Claimant filed their application for review on November 4, 2024.

CONCLUSIONS AND REASONS: Claimant’s late application for review of Order No. 24-UI-268600 is dismissed.

An application for review is timely if it is filed within 20 days of the date that the Office of Administrative Hearings (OAH) mailed the order for which review is sought. ORS 657.270(6); OAR 471-041-0070(1) (May 13, 2019). The 20-day filing period may be extended a “reasonable time” upon a showing of “good cause.” ORS 657.875; OAR 471-041-0070(2). “Good cause” means that factors or circumstances beyond the applicant’s reasonable control prevented timely filing. OAR 471-041-0070(2)(a). A “reasonable time” is seven days after the circumstances that prevented the timely filing ceased to exist. OAR 471-041-0070(2)(b). A late application for review will be dismissed unless it includes a written statement describing the circumstances that prevented a timely filing. OAR 471-041-0070(3).

The application for review of Order No. 24-UI-268600 was due by October 28, 2024. Because claimant did not file their application for review until November 4, 2024, the application for review was late. Claimant’s application for review did not include a written statement describing the circumstances that prevented them from filing the application for review by the October 28, 2024, deadline. Accordingly, claimant did not show good cause for the late application for review, and claimant’s late application for review is dismissed.

DECISION: The application for review filed November 4, 2024 is dismissed. Order No. 24-UI-268600 remains undisturbed.

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

DATE of Service: November 25, 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 stated above**. See ORS 657.282. For forms and information, visit <https://www.courts.oregon.gov/courts/appellate/forms/Pages/appeal.aspx> and choose the appropriate form under “File a Petition for Judicial Review.” You may also contact the Court of Appeals by telephone at (503) 986-5555, by fax at (503) 986-5560, or by mail at 1163 State Street, Salem, Oregon 97301.

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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 ໄດ້ ໂດຍປະຕິບັດຕາມຄໍາແນະນໍາທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄໍາຕັດສິນນີ້.

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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