

**EMPLOYMENT APPEALS BOARD DECISION**  
**2024-EAB-0790**

*Affirmed*  
*Late Request for Hearing Dismissed*

**PROCEDURAL HISTORY:** On January 11, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant failed to provide information to the Department and was therefore ineligible for unemployment insurance benefits for the weeks of December 24, 2023, through January 6, 2024 (weeks 52-23 through 01-24) and until the reason for the denial ended (decision # 60051). On January 31, 2024, decision # 60051 became final without claimant having filed a request for hearing. On October 17, 2024, claimant filed a late request for hearing on decision # 60051. ALJ Kangas considered claimant's request, and on October 22, 2024, issued Order No. 24-UI-270331, dismissing claimant's request for hearing as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by November 5, 2024. On November 11, 2024, claimant filed a late response to the appellant questionnaire and a timely application for review of Order No. 24-UI-270331 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 consists of claimant's November 11, 2024, response to the appellant questionnaire, and has been marked as EAB Exhibit 1, and a copy provided to the parties with this decision. 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.

**FINDINGS OF FACT:** (1) On January 11, 2024, the Department mailed decision # 60051 to claimant's address on file with the Department. Decision # 60051 stated, "You have the right to appeal this decision if you do not believe it is correct. Your request for appeal must be received no later than January 31, 2024." Exhibit 1 at 2. Decision # 60051 denied claimant benefits on the basis that claimant had failed to provide requested information about claimant's return-to-work date. Exhibit 1 at 1.

(2) On January 16, 2024, claimant contacted the Department by phone and spoke to a representative about their return-to-work date. The representative to whom claimant spoke entered the following comments into claimant's claim:

PTC CLMT CALLED TODAY STATED HIS RTWD IS NOW THE WEEK OF 1/18/24-ADDED DLF 01 WK 03/24-SENT INFO TO THE SPEC OPS DEPT FOR REVIEW OF THE RF DENIAL. CLMT STATED HE SENT THE PAPERWORK FOR THE RTWD ON 1/11/24 APPROX. STILL HAVE NOT RECEIVED THE PAPERWORK AS OF TODAY WAS SENT THRU THE MAIL-ADV'D CLMT TO SEND THRU THE CONTACT US AREA NEXT TIME. CLMT UNDERSTOOD.

PTC RF DENIAL WK 52/23 TO SPEC OPS TO END CLMT PROVIDED TH RTWD IS 1/18/24 WK 03/24. AS PER PREVIOUS COMMENT. CLMT STATED HE WILL BE GOING BAC LATER THIS WEEK ADV'D CLMT TO NOTIFY UI IF A DIFFERENT DATE. CLMT UNDERSTOOD. EXPLND THE REVIEW PROCESS TO CLMT CLMT STATED HE SENT TH LETTER ON APPROX 1/11/24 THRU THE MAIL.<sup>1</sup>

(3) January 31, 2024, decision # 60051 became final without claimant having filed a request for hearing. On October 17, 2024, claimant filed a late request for hearing on decision # 60051.

**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 # 60051 was due by January 31, 2024. Because claimant did not file their request for hearing until October 17, 2024, the request was late. On their response to the appellant questionnaire, claimant indicated that they received the administrative decision on January 14, 2024, but also stated that they were "not positive" that the date was correct. EAB Exhibit 1 at 1. On the request for hearing itself, claimant reported, "Im not sure why I was denied my benefits multiple times. I didnt receive the reasoning on the letters for what I did wrong." Exhibit 2 at 4.

Based on these conflicting statements, there is some doubt as to whether claimant actually received decision # 60051. However, on balance, the record supports the inference that claimant did actually receive decision # 60051, as stated in their response to the appellant questionnaire, shortly after it was issued. On January 16, 2024, claimant contacted the Department about the issue that was addressed in

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<sup>1</sup> EAB has taken notice of these facts, which are contained in Employment Department records. OAR 471-041-0090(1). Any party that objects to our taking notice of this information 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 noticed fact will remain in the record.

decision # 60051. One of the comments entered into claimant's claim regarding that call indicated that claimant "stated he sent the paperwork for the [return-to-work date] on 1/11/24 approx." This comment, combined with the timing of claimant's call to the Department a few days after the administrative decision was issued, suggests that claimant was calling in response to having received the decision.

Furthermore, claimant's explanation as to why they failed to file a timely request for hearing does not indicate that it was due to their failure to timely receive the decision. On their response to the appellant questionnaire, responding to the question asking why they did not file a timely request for hearing, claimant stated, "Because I didn't know that was an option. I spoke to someone on the phone who told me to do it." EAB Exhibit 1 at 2. Claimant further explained, "If I knew about it I would have done it," and stated, "I didn't understand the unemployment process, applications or website. I called many times and couldn't get through for days and days." EAB Exhibit 1 at 2.

Based on all of the above information, it is reasonable to infer that claimant timely received the administrative decision but, despite contacting the Department to address the issue that led to the denial of benefits, did not understand at that time that they also had the right to appeal the decision by filing a request for hearing. While claimant's confusion is understandable, the information regarding their appeal rights was printed on the second page of the decision itself. As such, claimant has not shown that factors beyond their reasonable control prevented them from reading that information, following the instructions indicated, and filing a timely request for hearing.

Additionally, although claimant's confusion about the appeals process was likely the result of a mistake on their part, 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.

Therefore, claimant's late request for hearing on decision # 60051 must be dismissed under ORS 657.875 and OAR 471-040-0010.

**DECISION:** Order No. 24-UI-270331 is affirmed.

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

**DATE of Service:** December 9, 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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you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.



# 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**  
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 Website: [www.Oregon.gov/employ/pages/employment-appeals-board.aspx](http://www.Oregon.gov/employ/pages/employment-appeals-board.aspx)

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El Departamento de Empleo de Oregon es un programa que respeta la igualdad de oportunidades. Disponemos de servicios o ayudas auxiliares, formatos alternos y asistencia de idiomas para personas con discapacidades o conocimiento limitado del inglés, a pedido y sin costo.