

EMPLOYMENT APPEALS BOARD DECISION
2024-EAB-0804

Affirmed
Late Request for Hearing Dismissed

PROCEDURAL HISTORY: On July 30, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant failed to provide information to verify her identity and was therefore ineligible to receive unemployment insurance benefits effective July 21, 2024 (decision # L0005409487). On August 19, 2024, decision # L0005409487 became final without claimant having filed a request for hearing. On September 3, 2024, claimant filed a late request for hearing.¹ ALJ Scott considered claimant's request, and on September 17, 2024 issued Order No. 24-UI-266433, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by October 1, 2024. On September 23, 2024, claimant filed a timely response to the appellant questionnaire. ALJ Kangas considered the response, and on November 6, 2024 issued Order No. 24-UI-272184, cancelling Order No. 24-UI-266433 and re-dismissing claimant's request for hearing as late without good cause. On November 13, 2024, claimant filed an application for review of Order No. 24-UI-272184 with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant's written argument discussed only her request to reopen a hearing in an unrelated matter. Under ORS 657.275(2) and OAR 471-041-0090(1)(b)(A) (May 13, 2019), EAB did not consider claimant's argument because it was not relevant and material to EAB's determination of whether her late request for hearing on decision # L0005409487 should be allowed.

¹ Claimant's request for hearing filing addressed the merits of an order in an unrelated appeal (Order No. 24-UI-262436) regarding a work separation. Exhibit 2 at 4. After that order was issued, the Department issued an amended administrative decision pertaining to the work separation (decision # L0005765828), apparently to conform to the conclusions of the order, without granting claimant the right to request an additional hearing despite the decision itself stating otherwise. Claimant's September 3, 2024 filing suggests that she may have been confused about how to proceed with that appeal, and that her intention was to request reopening of the hearing in that matter rather than to appeal decision # L0005409487.

Further, despite the Department issuing two administrative decisions on July 30, 2024 concluding that claimant was ineligible for benefits (the other being decision # L0005477030, involving failure to register for work), and claimant's "reason for appealing" addressing neither of these administrative decisions, claimant's filing was construed only as a late request for hearing on decision # L0005409487. **Claimant may therefore consider filing a late request for hearing on decision # L0005477030 as soon as possible if she wishes to appeal that decision and believes that she has good cause for the late filing.**

FINDING OF FACT: (1) Decision # L0005409487, mailed to claimant’s address on file with the Department on July 30, 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 **August 19, 2024.**” Exhibit 1 at 2 (emphasis in original). On September 3, 2024, claimant filed what was construed as a request for hearing on decision # L0005409487.

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 # L0005409487 was due by August 19, 2024. Claimant’s request for hearing was filed on September 3, 2024, and was therefore late. Claimant was mailed an appellant questionnaire seeking information about why the request for hearing was filed late. However, in response, claimant did not address the late filing, instead explaining why she missed the hearing that resulted in the issuance of Order No. 24-UI-262436 and requesting reopening of that hearing.² Exhibit 3 at 2. Therefore, the record fails to show why claimant’s request for hearing on decision # L0005409487 was late. Accordingly, good cause has not been shown to extend the filing deadline, and claimant’s late request for hearing is dismissed.³

DECISION: Order No. 24-UI-272184 is affirmed.

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

DATE of Service: December 11, 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.

² EAB has notified the Office of Administrative Hearings (OAH) that claimant’s August 19, 2024 filing and September 23, 2024 appellant questionnaire response should be reviewed collectively as a potential request to reopen the hearing at issue in Order No. 24-UI-262436.

³ If claimant has not already completed identity verification, she should note that she will remain ineligible to receive benefits until it has been completed.

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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 – 本判决会影响您的失业救济金。如果您不明白本判决，请立即联系就业上诉委员会。如果您不同意此判决，您可以按照该判决结尾所写的说明，向俄勒冈州上诉法院提出司法复审申请。

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.

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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 باتباع 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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