

EMPLOYMENT APPEALS BOARD DECISION
2024-EAB-0857

Affirmed
Late Requests for Hearing Dismissed

PROCEDURAL HISTORY: On September 10, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant did not actively seek work during the week of August 25, 2024, through August 31, 2024 (week 35-24) and was therefore ineligible to receive benefits for that week (decision # L0005998268). On September 13, 2024, the Department served notice of an administrative decision concluding that claimant did not actively seek work during the week of July 14, 2024, through July 20, 2024 (week 29-24) and was therefore ineligible to receive benefits for that week (decision # L0006120329). On September 30, 2024, and October 3, 2024, decisions # L0005998268 and L0006120329, respectively, became final without claimant having filed a request for hearing. On October 29, 2024, claimant filed a late request for hearing on each decision. ALJ Kangas considered the requests, and on November 25, 2024, issued Orders No. 24-UI-274638 and 24-UI-274635, dismissing claimant's requests for hearing on decisions # L0005998268 and L0006120329, respectively, as late, subject to claimant's right to renew the requests by responding to an appellant questionnaire by December 9, 2024. On December 12, 2024, claimant filed applications for review of Orders No. 24-UI-274638 and 24-UI-274635 with the Employment Appeals Board (EAB).¹

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 24-UI-274638 and 24-UI-274635. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2024-EAB-0856 and 2024-EAB-0857).

EVIDENTIARY MATTER: EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence is claimant's appellant questionnaire response, has been marked as EAB Exhibit 1, and a copy provided to the parties with this decision. Any party that objects to EAB taking notice of this information must send their objection to

¹ The applications for review were filed by mail but did not contain a postmark. EAB received them on Monday, December 16, 2024, and determined the most probable date of filing to be Thursday, December 12, 2024. See OAR 471-041-0065 (May 13, 2019).

EAB in writing, saying why they object, within ten days of EAB mailing this decision. OAR 471-041-0090(2). Unless EAB receives and agrees with the objection, the exhibit will remain in the record.

FINDINGS OF FACT: (1) Decision # L0005998268, mailed to claimant’s address of record on September 10, 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 **September 30, 2024.**” Order No. 24-UI-274638, Exhibit 1 at 1 (emphasis in original). Decision # L0005998268 also explained how to file the request for hearing, including by using Frances Online, mail, or telephone. Order No. 24-UI-274638, Exhibit 1 at 2.

(2) Decision # L0006120329, mailed to claimant’s address of record on September 13, 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 **October 3, 2024.**” Order No. 24-UI-274635, Exhibit 1 at 1 (emphasis in original). Decision # L0006120329 also explained how to file the request for hearing, including by using Frances Online, mail, or telephone. Order No. 24-UI-274635, Exhibit 1 at 2.

(3) Claimant received each decision shortly after it was mailed. Claimant filed late a request for hearing on each decision on October 29, 2024.

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.

The requests for hearing on decisions # L0005998268 and L0006120329 were due by September 30, 2024, and October 3, 2024, respectively. Claimant’s requests for hearing were filed on October 29, 2024, and were therefore late.

Claimant wrote in their appellant questionnaire response that they “tried to meet the deadline, but didn’t understand how to, and [weren’t] getting the correct advice on how to.” EAB Exhibit 1 at 3. The record does not show why claimant could not have followed the instructions in each administrative decision for filing a request for hearing. It also does not show why, if claimant desired further explanations regarding the decisions or the appeals process, they could not have been obtained it prior to the filing deadlines. Therefore, claimant has not shown that they were prevented from filing timely requests for hearing by factors beyond their reasonable control.

Although the delay in filing to seek additional information about the administrative decisions or appeal process was likely the result of a mistake on claimant’s 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.

Accordingly, good cause does not exist to extend the filing deadlines, and claimant's late requests for hearing are dismissed.

DECISION: Orders No. 24-UI-274638 and 24-UI-274635 are affirmed.

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

DATE of Service: January 10, 2025

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 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
 Email: appealsboard@employ.oregon.gov
 Website: www.Oregon.gov/employ/pages/employment-appeals-board.aspx

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