

EMPLOYMENT APPEALS BOARD DECISION
2024-EAB-0868

Reversed
Late Request for Hearing Allowed
Merits Hearing Required

PROCEDURAL HISTORY: On December 14, 2020, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit work without good cause and was therefore disqualified from receiving unemployment insurance benefits effective July 12, 2020 (decision # 85006). On January 4, 2021, decision # 85006 became final without claimant having filed a request for hearing. On February 20, 2024, claimant filed a late request for hearing on decision # 85006. ALJ Kangas considered claimant’s request, and on December 3, 2024, issued Order No. 24-UI-275501, dismissing claimant’s request for hearing as late, subject to claimant’s right to renew the request by responding to an appellant questionnaire by December 17, 2024. On December 23, 2024, claimant filed a late response to the appellant questionnaire and a timely application for review of Order No. 24-UI-275501 with the Employment Appeals Board (EAB). This matter comes before EAB based upon claimant’s December 23, 2024 application for review of Order No. 24-UI-275501.

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, which has been marked as EAB Exhibit 1 and provided to the parties with this decision. Any party that objects to EAB taking notice of this information must send their objection to 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) Prior to December 14, 2020, claimant lived at an address on Wallace Road in Salem, Oregon for a time, but then became unhoused. Upon becoming unhoused, claimant was “off and on homeless sleeping on benches and in church grass fields” and “anything that was [mailed to them] was sent back [since claimant] wasn’t able to pick up any mail.” Exhibit 2 at 2.

(2) On December 14, 2020, the Department mailed decision # 85006 to the Wallace Road address. Decision # 85006 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 4, 2021.” Exhibit 1 at 2.

(3) Because they were unhoused, claimant did not receive decision # 85006.

(4) After becoming unhoused, claimant had several adverse life experiences. In 2021, claimant attempted suicide, and on or around that time was diagnosed with bipolar disorder and depression, and was placed on medication. Thereafter, claimant remained “off and on homeless[.]” Exhibit 2 at 2.

(5) On or about May 2023, claimant was “able to get a P.O. Box to have [their] mail sent to [them].” Exhibit 2 at 2. On May 30, 2023, claimant updated their address with the Department to the P.O. Box address.¹

(6) At some point after May 2023, claimant received an invoice from the Department at claimant’s P.O. box address. The invoice sought repayment of an overpayment resulting from an overpayment administrative decision that was based in part on decision # 85006.

(7) On February 20, 2024, claimant contacted the Department about the overpayment and a representative informed claimant of decision # 85006. “[A]s soon as [claimant] knew the situation” on February 20, 2024, they filed a late request for hearing on decision # 85006. EAB Exhibit 1 at 2.

(8) At the time claimant filed their late request for hearing, they were “still homeless as [they] reside inside a tent” and had “no car or license anymore, no house, and barely anything to [their] name.” Exhibit 2 at 2.

CONCLUSIONS AND REASONS: Order No. 24-UI-275501 is reversed, claimant’s late request for hearing is allowed, and a hearing on the merits of decision # 85006 is required.

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 # 85006 was due by January 4, 2021. Because claimant did not file their request for hearing until February 20, 2024, the request for hearing was late.

Claimant established good cause to extend the filing deadline to February 20, 2024 and filed their request for hearing the same day, which was within a seven-day “reasonable time” of when the circumstances preventing a timely appeal ended. Claimant did not receive decision # 85006 because

¹ EAB has taken notice of this fact, which is contained in Employment Department records. OAR 471-041-0090(1). Any party that objects to EAB taking notice of this information must send their objection to EAB in writing, stating 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 noticed fact(s) will remain in the record.

they were unhoused. Claimant's status as an unhoused person and resulting failure to receive or become aware of decision # 85006 and their appeal rights were circumstances beyond their reasonable control that prevented them from filing a timely request for hearing. Those circumstances persisted for years thereafter. Claimant was able to get a P.O. box address and update their address with the Department in 2023, which resulted in claimant eventually receiving an overpayment invoice. The invoice sought repayment of an overpayment resulting from an administrative decision that was based in part on decision # 85006. The available information does not indicate that the invoice included a copy of decision # 85006 or notice of claimant's right to appeal that decision. As such, although the invoice prompted claimant to contact the Department, receipt of the invoice alone was not sufficient to cause the circumstances preventing claimant from filing a hearing request on decision # 85006 to end.

On February 20, 2024, claimant contacted the Department about the overpayment and a representative informed claimant of decision # 85006. At that point the circumstances beyond claimant's control ended, and, on the same day, claimant filed a late request for hearing on decision # 85006. Thus, claimant established good cause to extend the deadline to file to February 20, 2024, and filed within a seven-day "reasonable time."

Claimant's late request for hearing is therefore allowed, and claimant is entitled to a hearing on the merits of decision # 85006.

The available information shows that claimant remains unhoused and with limited transportation options. Claimant is encouraged to carefully monitor their P.O. box for the notice of the merits hearing in this case. Following an appropriate amount of time for OAH to process this decision, perhaps a few days, claimant may wish to directly contact a hearings coordinator at OAH for information about the merits hearing, such as the date and time of the hearing and the call-in number and access code.

DECISION: Order No. 24-UI-275501 is set aside, and this matter remanded for further proceedings consistent with this order.

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

DATE of Service: January 22, 2025

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 24-UI-275501 or return this matter to EAB. Only a timely application for review of the subsequent order will cause this matter to return to EAB.

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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 الاستئناف 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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