

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0049

Affirmed
Request to Reopen October 10, 2023, Hearing Allowed
Late Request to Reopen March 9, 2023, Hearing Denied

PROCEDURAL HISTORY: On May 20, 2022, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant filed late claims for unemployment insurance benefits for the weeks of April 5, 2020, through May 23, 2020 (weeks 15-20 through 21-20) and therefore was not eligible to receive benefits for those weeks (decision # 104617). Also on May 20, 2022, the Department served notice of an administrative decision concluding that claimant filed late claims for benefits for the weeks of May 31, 2020, through August 15, 2020 (weeks 23-20 through 33-20) and therefore was not eligible to receive benefits for those weeks (decision # 104753). Also on May 20, 2022, the Department served notice of an administrative decision concluding that claimant filed late claims for benefits for the weeks of August 30, 2020, through December 5, 2020 (weeks 36-20 through 49-20) and therefore was not eligible to receive benefits for those weeks (decision # 105221). Also on May 20, 2022, the Department served notice of an administrative decision concluding that claimant filed late claims for benefits for the weeks of January 3, 2021, through September 4, 2021 (weeks 01-21 through 35-21) and therefore was not eligible to receive benefits for those weeks (decision # 105437). Claimant filed timely requests for hearing on all four administrative decisions.

On February 23, 2023, the Office of Administrative Hearings (OAH) served notice of a consolidated hearing on all four administrative decisions, scheduled for March 9, 2023. On March 9, 2023, claimant failed to appear at the hearing. On March 13, 2023, ALJ Roberts issued Orders No. 23-UI-218827, 23-UI-218828, 23-UI-218826, and 23-UI-218825, dismissing claimant's requests for hearing on decisions # 104617, 104753, 105221, and 105437, respectively, due to her failure to appear. On April 3, 2023, Orders No. 23-UI-218827, 23-UI-218828, 23-UI-218826, and 23-UI-218825 became final without claimant having filed a request to reopen the hearing. On April 10, 2023, claimant filed a late request to reopen the March 9, 2023, hearing.

On September 28, 2023, OAH served notice of a consolidated hearing scheduled on all four administrative decisions for October 10, 2023. On October 10, 2023, claimant failed to appear at the hearing. On October 11, 2023, ALJ Roberts issued Orders No. 23-UI-238271, 23-UI-238273, 23-UI-

238270, and 23-UI-238269, dismissing claimant's late request to reopen the March 9, 2023, hearing and leaving Orders No. 23-UI-218827, 23-UI-218828, 23-UI-218826, and 23-UI-218825, respectively, undisturbed. On October 31, 2023, claimant filed a timely request to reopen the October 10, 2023, hearing. On December 3, 2024, OAH mailed letters stating that Orders No. 23-UI-238271, 23-UI-238273, 23-UI-238270, and 23-UI-238269 were vacated¹ and that a hearing would be scheduled to determine whether claimant's requests to reopen the hearings should be granted and, if so, the merits of decisions # 104617, 104753, 105221, and 105437.

On December 24, 2024, ALJ Contreras conducted a consolidated hearing on all four matters, and on December 27, 2024, issued Orders No. 24-UI-278149, 24-UI-278150, 24-UI-278148, and 24-UI-278147, allowing claimant's request to reopen the October 10, 2023, hearing, denying claimant's request to reopen the March 9, 2023, hearing, and leaving decisions # 104617, 104753, 105221, and 105437, respectively, undisturbed. On January 16, 2025, claimant filed applications for review of Orders No. 24-UI-278149, 24-UI-278150, 24-UI-278148, and 24-UI-278147 with the Employment Appeals Board (EAB).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 24-UI-278149, 24-UI-278150, 24-UI-278148, and 24-UI-278147. For case-tracking purposes, this decision is being issued in quadruplicate (EAB Decisions 2025-EAB-0048, 2025-EAB-0049, 2025-EAB-0047, and 2025-EAB-0046).

WRITTEN ARGUMENT: Claimant's argument contained information that was not part of the hearing record, and did not show that factors or circumstances beyond claimant's reasonable control prevented her from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB considered only information received into evidence at the hearing when reaching this decision. EAB considered claimant's argument to the extent it was based on the record.

EAB considered the entire hearing record, including witness testimony and any exhibits admitted as evidence. EAB agrees with the parts of Order No. Orders No. 24-UI-278149, 24-UI-278150, 24-UI-278148, and 24-UI-278147 which allowed claimant's request to reopen the October 10, 2023, hearing. Those parts of Orders No. 24-UI-278149, 24-UI-278150, 24-UI-278148, and 24-UI-278147 are **adopted**. See ORS 657.275(2). The remainder of this decision addresses claimant's request to reopen the March 9, 2023, hearing.

FINDINGS OF FACT: (1) On May 20, 2022, the Department mailed decisions # 104617, 104753, 105221, and 105437 to claimant's address of record. Claimant filed timely requests for hearing on all four administrative decisions.

¹ The consolidated record contains such letters pertaining only to the matters in Orders No. 23-UI-238271, 23-UI-238273, and 23-UI-238270. Despite its absence in the record, it is presumed that OAH also mailed a similar letter regarding the matter in Order No. 24-UI-238269, given that the cases were consolidated for hearing. Additionally, these three letters indicated that the earlier orders in those matters, issued on March 13, 2023, were vacated, and that a hearing would be scheduled to address the timeliness of claimant's hearing requests. However, this is presumed to be scrivener's error, as claimant most recently filed a request to reopen after failing to appear at the October 10, 2024, hearing, and as claimant's requests for hearing were timely.

(2) On February 23, 2023, OAH served notice of a combined hearing on decisions # 104617, 104753, 105221, and 105437, scheduled for March 9, 2023. On March 9, 2023, claimant failed to appear for the hearing. On March 13, 2023, ALJ Roberts issued Orders No. 23-UI-218827, 23-UI-218828, 23-UI-218826, and 23-UI-218825, dismissing claimant's requests for hearing on decisions # 104617, 104753, 105221, and 105437, respectively, due to her failure to appear.

(3) Orders No. 23-UI-218827, 23-UI-218828, 23-UI-218826, and 23-UI-218825 each stated as follows:

If you did not appear at the hearing, you may request to reopen the hearing. These requests are governed by OAR 471-040-0040 and 471-040-0041 and should be filed with the Office of Administrative Hearings. Your request to reopen the hearing must: 1) be in writing; 2) show good cause for failing to appear at the hearing; 'Good cause' exists when an action, delay, or failure to act arises from an excusable mistake or from factors beyond an applicant's reasonable control; and 3) either be filed within 20 days of when the order from the hearing you missed was mailed, or else show good cause to extend the period to request reopening of your case, and show that you filed your reopen request within seven days of when those factors or circumstances ceased to exist. Include all information regarding your reopen request that you want the Administrative Law Judge to consider when deciding whether to grant your reopen request.

Order No. 24-UI-278149, Exhibit 5 at 4; Order No. 24-UI-278150, Exhibit 5 at 4; Order No. 24-UI-278148, Exhibit 5 at 4; Order No. 24-UI-278147, Exhibit 5 at 4. Orders No. 23-UI-218827, 23-UI-218828, 23-UI-218826, and 23-UI-218825 also each stated on their respective certificates of mailing, **"If you failed to appear for the hearing, you may request that your case be reopened. For directions regarding reopening, please refer to the enclosed information."** Order No. 24-UI-278149, Exhibit 5 at 1; Order No. 24-UI-278150, Exhibit 5 at 1; Order No. 24-UI-278148, Exhibit 5 at 1; Order No. 24-UI-278147, Exhibit 5 at 1 (emphases in originals).

(4) On April 3, 2023, Orders No. 23-UI-218827, 23-UI-218828, 23-UI-218826, and 23-UI-218825 became final without claimant having filed a request to reopen the March 9, 2023, hearing. On April 10, 2023, claimant filed a late request to reopen the March 9, 2023, hearing.

CONCLUSIONS AND REASONS: Claimant's late request to reopen is denied.

ORS 657.270(5) provides that any party who failed to appear at a hearing may request to reopen the hearing, and the request will be allowed if it was filed within 20 days of the date the hearing decision was issued and shows good cause for failing to appear. The period within which a party may request reopening may be extended if the party requesting reopening has good cause for failing to request reopening within the time allowed, and acts within a reasonable time. OAR 471-040-0041(1) (February 10, 2012). "Good cause" exists when an action, delay, or failure to act arises from an excusable mistake or from factors beyond an applicant's reasonable control. OAR 471-040-0041(2). "A reasonable time," is seven days after the circumstances that prevented a timely filing ceased to exist. OAR 471-040-0041(3). The party requesting reopening shall set forth the reason(s) for filing a late request to reopen in a written statement, which OAH shall consider in determining whether good cause exists for the late filing, and whether the party acted within a reasonable time. OAR 471-040-0041(4).

The request to reopen the March 9, 2023, hearing was due by April 3, 2023. Claimant filed her request to reopen that hearing on April 10, 2023. The request was therefore late. Claimant's written request itself did not state either the reason that claimant failed to appear at the March 9, 2023, hearing or the reason that she failed to file a timely request to reopen that hearing. *See, e.g.*, Order No. 24-UI-278149, Exhibit 6 at 2. Further, at the December 24, 2024, hearing, claimant was unable to offer clear explanations for why she missed the hearing or why, despite speaking to a Department representative on March 20, 2023, she failed to file her request to reopen until after the deadline. Therefore claimant did not show good cause for the late request to reopen and also failed to show that she had good cause for failing to appear at the March 9, 2023, hearing.

Although claimant's failures to appear at the hearing and file a timely reopen request were likely the results of mistakes on claimant's part, they were not "excusable mistakes" within the meaning of the administrative rules because they did not, for example, raise a due process issue, and were not the results of inadequate notice, reasonable reliance on another, or the inability to follow directions despite substantial efforts to comply.

As such, claimant has not shown either that she had good cause for failing to file a timely reopen request, or that she had good cause for failing to appear at the March 9, 2023, hearing. Claimant's late request to reopen the March 9, 2023, hearing is therefore denied.

DECISION: Orders No. 24-UI-278149, 24-UI-278150, 24-UI-278148, and 24-UI-278147 are affirmed.

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

DATE of Service: February 21, 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 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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