

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0058

Affirmed
Late Request for Hearing Dismissed

PROCEDURAL HISTORY: On August 30, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant refused a job without good cause and was therefore disqualified from receiving unemployment insurance benefits effective March 19, 2023 (decision # L0005838897). On September 19, 2024, decision # L0005838897 became final without claimant having filed a request for hearing. On October 28, 2024, claimant filed a late request for hearing on decision # L0005838897. ALJ Kangas considered claimant's request, and on November 21, 2024 issued Order No. 24-UI-274217, 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 5, 2024. On December 2, 2024, claimant filed a timely response to the appellant questionnaire.

ALJ Kangas considered the appellant questionnaire response, and on January 16, 2025, issued Order No. 25-UI-280144, canceling Order No. 24-UI-274217, re-dismissing claimant's hearing request as late without good cause, and leaving decision # L0005838897 undisturbed. On January 22, 2025, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: 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 regarding whether claimant's late request for hearing on decision # L0005838897 should be allowed.¹

¹ The written argument appears to relate to a separate matter, an appeal of decision # L0007293212, a voluntary quit decision. The Office of Administrative Hearings (OAH) treated claimant's argument as a reopen request in that matter, and on February 13, 2025 mailed to claimant Order No. 25-UI-283053, which denied claimant's reopen request in that separate matter. EAB has taken notice of these facts, which are contained in Employment Department record. 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.

FINDINGS OF FACT: (1) On August 30, 2024, the Department mailed decision # L0005838897 to claimant's address on file with the Department. Decision # L0005838897 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 hearing no later than 19-Sep-2024." Exhibit 1 at 2. Decision # L0005838897 also stated, "We made this decision on August 30, 2024, and it becomes final unless we receive a request for a hearing by September 19, 2024." Exhibit 1 at 1.

(2) On September 19, 2024, decision # L0005838897 became final without claimant having filed a request for hearing.

(3) Claimant failed to file a request for hearing by the September 19, 2024 deadline because they "lost control of time working long hours and didn't check mail box." Exhibit 3 at 2.

(4) On October 28, 2024, claimant filed a late request for hearing on decision # L0005838897.

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 deadline to file a request for hearing on decision # L0005838897 was September 19, 2024. Because claimant did not file a request for hearing on the decision until October 28, 2024, the hearing request was late.

Claimant failed to establish good cause for the late hearing request on decision # L0005838897. Claimant failed to file a request by the September 19, 2024 deadline because they "lost control of time working long hours and didn't check mail box." Exhibit 3 at 2. Claimant did not show that the press of long work hours was a circumstance beyond their reasonable control that prevented them from promptly checking their mail and filing a request for hearing on time. It was within claimant's control to, for example, set a reminder to check their mail. Doing so would have enabled claimant to become aware of their receipt of decision # L0005838897, and to file a hearing request before the 20-day deadline to appeal the decision elapsed.

The fact claimant failed to file a request for hearing by the September 19, 2024 deadline because they lost track of time while working long hours was likely the result of a mistake on claimant's part. However, 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 # L0005838897 is subject to dismissal under ORS 657.875 and OAR 471-040-0010.

DECISION: Order No. 25-UI-280144 is affirmed.

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

DATE of Service: February 24, 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 دستورالعمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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