

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0059

Affirmed
Request for Hearing Dismissed – No Justiciable Controversy

PROCEDURAL HISTORY: On January 2, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant, but not for misconduct, and claimant therefore was not disqualified from receiving unemployment insurance benefits based on the work separation (decision # L0008003874). Claimant filed a timely request for hearing.

ALJ Kangas considered the request, and on January 13, 2025, issued Order No. 25-UI-279670, dismissing claimant's request for hearing because decision # L0008003874 was in claimant's favor and the hearing request therefore did not present a justiciable controversy. On January 23, 2025, claimant filed a timely application for review of Order No. 25-UI-279670 with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant submitted a written argument in the form of a hand-written message on a sticky note placed on their application for review form. EAB did not consider claimant's written argument when reaching this decision because they did not include a statement declaring that they provided a copy of their argument to the opposing party or parties as required by OAR 471-041-0080(2)(a) (May 13, 2019).

FINDINGS OF FACT: (1) On January 2, 2025, the Department issued decision # L0008003874, which concluded that the employer discharged claimant, but not for misconduct, and claimant therefore was not disqualified from receiving benefits based on the work separation.

(2) In concluding that claimant was discharged, but not for misconduct, decision # L0008003874 stated, "We found you were fired from your job . . . because [you] were not able to complete required tasks." Exhibit 1 at 1. The decision determined that claimant's discharge was not for misconduct because "there is insufficient information related to a final incident to show that you were negligent in your actions." Exhibit 1 at 1.

(3) Although decision # L0008003874 was fully favorable to claimant because it allowed claimant benefits, claimant disagreed with the assertion that they were discharged. *See* Exhibit 2 at 4 (“I was not fired from my job i was laid off do [*sic*] to the fact that i could not work from home and was promised my job back once i was able to come back to work. Contact my last job and ask them they will tell you the same thing.”).

(4) On January 6, 2025, claimant filed a timely request for hearing on decision # L0008003874.

CONCLUSIONS AND REASONS: The request for hearing is dismissed because decision # L0008003874 was favorable to claimant and the hearing request therefore does not present a justiciable controversy.

ORS 657.270(7)(G) provides that an administrative law judge may dismiss a request for hearing if, “The request for hearing is made by a person who is not entitled to a hearing[.]” Similarly, OAR 471-040-0035 (August 1, 2024), provides, in pertinent part:

* * *

(3) On the administrative law judge’s own initiative, an administrative law judge may order that a request for hearing be dismissed if:

* * *

(e) The request for hearing is made by a person not entitled to a hearing on the merits or is made with respect to a determination or decision of the Director or authorized representative with respect to which there is no lawful authority to request a hearing.

Oregon courts follow the principle that a review on appeal may only be provided for justiciable controversies. *See, e.g., Gortmaker v. Seaton*, 252 Or. 440, 442, 450 P.2d 547 (1969). A justiciable controversy exists when the interests of the parties to the action conflict with each other, and the appeal will have some practical effect on the rights of the parties to the controversy. *Barcik v. Kubiacyk*, 321 Or 174, 895 P2d 765 (1995). To show a practical effect on their rights, an appellant must seek “substantive relief” through their appeal. *Krisor v. Henry*, 256 Or. App. 56, 300 P.3d 199 (Or. Ct. App. 2013).

Decision # L0008003874 was fully favorable to claimant because it allowed claimant benefits. Claimant disagreed with the reasoning of the administrative decision, which stated that claimant was “fired” because claimant was “not able to complete required tasks,” though it ultimately concluded that claimant’s discharge was not for misconduct. Exhibit 1 at 1.

While claimant did not agree with the decision’s *reasoning*, they did not assign any error to the administrative decision’s conclusion or allege any facts entitling them to further relief. A review of the merits of decision # L0008003874 could not have provided substantive relief to claimant and such review would have no practical effect on claimant’s rights. Accordingly, claimant’s request for hearing on decision # L0008003874 does not present a justiciable controversy.

Because claimant's request for hearing on decision # L0008003874 does not present a justiciable controversy, Order No. 25-UI-279670 properly dismissed the hearing request. Order No. 25-UI-279670 is affirmed, and decision # L0008003874 remains undisturbed.

Claimant should note that there is a separate administrative decision, decision # L0008009164, that denied claimant benefits beginning September 1, 2024 on the basis that claimant was unable to work. That decision is unfavorable to claimant. Department records show that claimant requested a hearing on decision # L0008009164, and the matter is currently before the Office of Administrative Hearings (OAH). Claimant can expect OAH to notify them of the date and time of the hearing in that matter.

DECISION: Order No. 25-UI-279670 is affirmed.

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

DATE of Service: February 25, 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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