

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0063

Reversed & Remanded

PROCEDURAL HISTORY AND FINDINGS OF FACT: On June 27, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit work without good cause and therefore was disqualified from receiving unemployment insurance benefits effective March 3, 2024 (decision # L0004812372). On July 17, 2024, decision # L0004812372 became final without claimant having filed a request for hearing. On September 10, 2024, claimant filed a late request for hearing on decision # L0004812372. ALJ Scott considered claimant's request, and on September 19, 2024 issued Order No. 24-UI-266703, dismissing claimant's request for hearing as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by October 3, 2024. On September 30, 2024, claimant filed a timely response to the appellant questionnaire. On November 4, 2024, the Office of Administrative Hearings (OAH) mailed a letter stating that Order No. 24-UI-266703 was vacated and that a hearing would be scheduled to determine whether claimant had good cause to file the late request for hearing and, if so, the merits of decision # L0004812372.

On December 9, 2024, OAH served notice of a hearing scheduled for December 24, 2024. On December 24, 2024, claimant failed to appear at the hearing, and ALJ Bender issued Order No. 24-UI-277952, dismissing claimant's request for hearing due to their failure to appear. On December 30, 2024, claimant filed a timely request to reopen the hearing. ALJ Scott considered claimant's request, and on January 17, 2025, issued Order No. 25-UI-280189, denying the reopen request as without good cause and leaving Order No. 24-UI-277952 undisturbed. On January 26, 2025, claimant filed an application for review of Order No. 25-UI-280189 with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant submitted written arguments on January 26, 2025 and February 4, 2025. For each argument, claimant did not state 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). Both arguments also contained information that was not part of the record and did not show that factors or circumstances beyond claimant's reasonable control prevented claimant from offering the information with their request to reopen the hearing as required by OAR 471-040-0040(3) (February 10, 2012). Under ORS

657.275(2) and OAR 471-041-0090 (May 13, 2019), EAB considered only information received into the record when reaching this decision.

There will be a remand hearing. At the remand hearing, the parties may offer new information, such as the information contained in claimant's written arguments, into evidence. At that time, the ALJ will decide if the new information will be admitted into the record. The parties must follow the instructions on the notice of the remand hearing regarding documents they wish to have considered at the hearing. These instructions will direct the parties to provide copies of such documents to the ALJ and the other parties before the hearing at their addresses as shown on the certificate of mailing for the notice of hearing.

CONCLUSIONS AND REASONS: Order No. 25-UI-280189 is reversed, and this matter is remanded for further development of the record to determine whether claimant's request to reopen the December 24, 2024 hearing should be allowed; if so, whether claimant's late request for hearing on decision # L0004812372 should be allowed; and, if so, the merits of that decision.

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. "Good cause" exists when the requesting party's failure to appear at the hearing arose from an excusable mistake or from factors beyond the party's reasonable control. OAR 471-040-0040(2) (February 10, 2012). The party requesting reopening shall set forth the reason(s) for missing the hearing in a written statement, which the Office of Administrative Hearings (OAH) shall consider in deciding whether good cause exists for failing to appear at the hearing. OAR 471-040-0040(3).

Claimant failed to appear at the December 24, 2024 hearing, and filed a timely request to reopen the hearing on an Appellant Questionnaire form. On that request, claimant provided written responses which, although somewhat ambiguous, appear to explain why they missed the hearing. *See* Exhibit 5 at 1, 8. Claimant's request to reopen the hearing therefore meets the threshold requirements of OAR 471-040-0040.

In those written responses, claimant stated, in relevant part, "I received decisions too late or close to any deadlines giving me little to no time to understand my options." Exhibit 5 at 1. Claimant also explained, "The office always emailed me close to due dates, before weekends, middle of night?! Odd times. Frances Online lagged constantly on my inbox option." Exhibit 5 at 8.

These responses suggest that claimant may not have promptly received the notice of hearing for the December 24, 2024 hearing, which could be good cause for failing to appear at the hearing. However, further information is necessary to decide whether claimant had good cause. At the remand hearing, the ALJ should ask questions regarding when, if at all, claimant received the December 9, 2024 notice of hearing; what circumstances, if any, prevented claimant from receiving the notice prior to the December 24, 2024 hearing or with sufficient time to attend the hearing; and what other factors, if any, prevented claimant from appearing for the December 24, 2024 hearing.

For the above reasons, Order No. 25-UI-280189 is set aside, and this matter remanded for a hearing on whether claimant's request to reopen the December 24, 2024 hearing should be allowed; if so, whether claimant's late request for hearing should be allowed; and, if so, the merits of decision # L0004812372.

DECISION: Order No. 25-UI-280189 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: February 27, 2025

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 25-UI-280189 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 دستورالعمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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