

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0072

Affirmed
Request for Hearing Dismissed – No Justiciable Controversy

PROCEDURAL HISTORY AND FINDINGS OF FACT: On January 10, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant that was allowed unemployment insurance benefits from December 20, 2024, through January 3, 2025,¹ a school recess period, because claimant did not have enough hours or earnings to be considered employed by an educational institution immediately before the recess period (decision # L0008187755). Claimant filed a timely request for hearing. ALJ Kangas considered claimant's request, and on January 27, 2025, issued Order No. 25-UI-281149, dismissing the request because decision # L0008187755 was in claimant's favor and therefore did not present a justiciable controversy. On January 30, 2025, claimant filed an application for review with the Employment Appeals Board (EAB).

CONCLUSIONS AND REASONS: The request for hearing is dismissed because decision # L0008187755 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:

* * *

¹ Benefit weeks start on Sundays and end on Saturdays. December 20, 2024, was not a Sunday, and January 3, 2025, was not a Saturday, and decision # L0008187755 did not indicate which benefit weeks were affected by its determination. It therefore is unclear as to which weeks, precisely, the Department found claimant to be eligible for benefits.

(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 # L0008187755 was fully favorable to claimant because it allowed claimant benefits. In their request for hearing, claimant explained that they were appealing for two reasons:

- 1) I am NOT a school employee.
- 2) I was not given an opportunity or a “Ready To File” for the week ending 01/04/2025.

Exhibit 1 at 2. Neither of these concerns entitles claimant to a hearing on decision # L0008187755. Claimant’s assertion that they are not a school employee appears to relate to the finding in decision # L0008187755 that claimant worked for a school district. *See* Exhibit 1 at 1. The record does not indicate for whom claimant was working at the time that decision # L0008187755 was issued. However, the Department’s records show that claimant had wages reported by the same school district for the third quarter of 2023, and that those wages were used as base year wages for claimant’s current benefit year.

Under ORS 657.167 and ORS 657.221, when an individual has a claim for benefits based, at least in part, on wages paid by an educational employer, the Department is required to determine whether the individual is eligible for benefits based on the educational wages during school recess periods. Thus, even if claimant was not employed by that school district at the time that decision # L0008187755 was issued, because claimant had base-year wages from an educational employer, the Department was required to make such a determination for the 2024-2025 holiday break period. If claimant requires further clarification on how such determinations work, or has concerns regarding the second item in their request for hearing, they may contact the Department directly.

As explained above, though, the Department determined in decision # L0008187755 that claimant *was* eligible for benefits based on the educational wages for the recess period. Therefore, even if claimant disagrees with the characterization that they were an educational employee, because the administrative decision was fully favorable to claimant, and claimant has not assigned any error to the administrative decision’s conclusion that they were eligible for benefits, or alleged any facts entitling them to further relief, a review of the merits of decision # L0008187755 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 # L0008187755 does not present a justiciable controversy.

Because claimant’s request for hearing on decision # L0008187755 does not present a justiciable controversy, Order No. 25-UI-281149 properly dismissed the hearing request. Order No. 25-UI-281149 is affirmed, and decision # L0008187755 remains undisturbed.

DECISION: Order No. 25-UI-281149 is affirmed.

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

DATE of Service: March 3, 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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