

State of Oregon  
**Employment Appeals Board**  
875 Union St. N.E.  
Salem, OR 97311

**EMPLOYMENT APPEALS BOARD DECISION**  
**2025-EAB-0081**

*Late Application for Review Allowed*  
*Reversed*  
*Merits Hearing Required*

**PROCEDURAL HISTORY:** On November 19, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily quit work without good cause and was therefore disqualified from receiving unemployment insurance benefits effective October 13, 2024 (decision # L0007284664).<sup>1</sup> Claimant filed a timely request for hearing. On January 6, 2025, ALJ S. Lee issued Order No. 25-UI-278826, concluding that claimant withdrew the request for hearing and therefore dismissing the request. On January 27, 2025, Order No. 25-UI-278826 became final without claimant having filed an application for review with the Employment Appeals Board (EAB). On February 5, 2025, claimant filed a late application for review with EAB.

**EVIDENTIARY MATTER:** EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence is the statement included with claimant's late application for review, has been marked as EAB Exhibit 1, and provided to the parties with this decision. Any party that objects to EAB taking notice of this information must send their objection to EAB in writing, saying 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 exhibit will remain in the record.<sup>2</sup>

<sup>1</sup> Decision # L0007284664 stated that claimant was denied benefits from October 13, 2024 to October 18, 2025. However, decision # L0007284664 should have stated that claimant was disqualified from receiving benefits beginning Sunday, October 13, 2024 and until he earned four times his weekly benefit amount. *See* ORS 657.176.

<sup>2</sup> In addition to the written statement, claimant submitted business licenses relevant only to the merits of decision # L0007284664. These documents were not made part of EAB Exhibit 1. The parties may offer new information such as these documents into evidence at the remand hearing. At that time, it will be determined 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 in advance of the hearing at their addresses as shown on the certificate of mailing for the notice of hearing.

**FINDINGS OF FACT:** (1) On November 19, 2024, the Department served notice of an administrative decision concluding that claimant voluntarily quit working for Farmers Insurance without good cause and was therefore disqualified from receiving benefits. Claimant believed that he had never been employed by Famers Insurance and therefore disagreed with the administrative decision. Claimant filed a timely request for hearing.

(2) On December 30, 2024, claimant telephoned the Office of Administrative Hearings (OAH) to explain that he had never been employed by the employer noticed in decision # L0007284664 and to attempt to resolve the disqualification without need for a hearing. The OAH representative's notes of that call stated, "After claimant learned that the employer would be part of the hearing process, or at least notified of the hearing, he opted to w/d his RFH. Granted."<sup>3</sup> Claimant believed that withdrawing the request for hearing could serve to resolve the disqualification and that if it did not, he could again request a hearing on decision # L0007586649 within 20 days of the withdrawal request.

(3) On January 6, 2025, ALJ S. Lee issued Order No. 25-UI-278826, dismissing claimant's request for hearing as having been withdrawn. Order No. 25-UI-278826 stated, "You may appeal this decision by filing the attached form Application for Review with the Employment Appeals Board within 20 days of the date that this decision is mailed." Order No. 25-UI-278826 at 1. Order No. 25-UI-278826 also stated on its Certificate of Mailing, "Any appeal from this Order must be filed on or before January 27, 2025, to be timely."

(4) On January 17, 2025, and January 24, 2025, claimant telephoned OAH because the disqualification from benefits remained in effect following dismissal of his request for hearing. Claimant did not speak with a representative during either call and left a voicemail message on one or both occasions. Claimant's purpose in calling was to again request a hearing, which he believed from his December 30, 2024, conversation would be allowed within 20 days of the date of that conversation. Claimant did not file an application for review of Order No. 25-UI-278826 by the January 27, 2025, deadline because he was awaiting a response from OAH to his calls re-requesting a hearing.

(5) At some time between January 30, 2025, and February 5, 2025, claimant learned either from OAH returning his calls or through other means that he would not be able to re-request a hearing through OAH, and that he could seek appellate review of the dismissal of his request for hearing only by filing a late application for review with EAB.

(6) On February 5, 2025, claimant filed a late application for review of Order No. 25-UI-278826 with EAB.

**CONCLUSIONS AND REASONS:** Claimant's late application for review is allowed. Order No. 25-UI-278826 is reversed and the matter remanded for a hearing on the merits of decision # L0007284664.

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<sup>3</sup> EAB has taken notice of this fact which is contained in Employment Department records. OAR 471-041-0090(1). Any party that objects to our taking notice of this information must submit such objection to this office in writing, setting forth the basis of the objection in writing, within ten days of our mailing this decision. OAR 471-041-0090(2). Unless such objection is received and sustained, the noticed fact will remain in the record.

**Late application for review.** An application for review is timely if it is filed within 20 days of the date that the Office of Administrative Hearings (OAH) mailed the order for which review is sought. ORS 657.270(6); OAR 471-041-0070(1) (May 13, 2019). The 20-day filing period may be extended a “reasonable time” upon a showing of “good cause.” ORS 657.875; OAR 471-041-0070(2). “Good cause” means that factors or circumstances beyond the applicant’s reasonable control prevented timely filing. OAR 471-041-0070(2)(a). A “reasonable time” is seven days after the circumstances that prevented the timely filing ceased to exist. OAR 471-041-0070(2)(b). A late application for review will be dismissed unless it includes a written statement describing the circumstances that prevented a timely filing. OAR 471-041-0070(3).

The application for review of Order No. 25-UI-278826 was due by January 27, 2025. Because claimant filed his application for review on February 5, 2025, it was late. The record shows that claimant misunderstood some aspects of the appeal process as a result of his December 30, 2024, telephone conversation with an OAH representative, which prevented timely filing of the application for review.

The OAH representative’s notes of claimant’s call suggest that claimant agreed to withdraw his request for hearing “[a]fter claimant learned that [Farmers Insurance] would be part of the hearing process, or at least notified of the hearing.” It can reasonably be inferred that the purpose of claimant’s call was to inquire whether a hearing on decision # L0007284664 was necessary to resolve the work separation disqualification because claimant asserted in his written statement that he had never been employed by Farmers Insurance. *See* EAB Exhibit 1 at 1. As explained in greater detail below, claimant misunderstood that withdrawing the request for hearing could result in reversal of the work separation disqualification. Claimant wrote in his statement, “I initially had declined to the [h]earing but I had until January 19<sup>th</sup> to call back, called on the 17<sup>th</sup> of January and a week later but I had no response [and] left a voicemail.” EAB Exhibit 1 at 1. Considering both the OAH notes and claimant’s statement, the record suggests that the OAH representative told claimant, or claimant misunderstood them to say, that claimant could contact OAH within 20 days of the withdrawal request to re-request a hearing if the withdrawal request did not result in reversal of the work separation disqualification. It is reasonable to infer from claimant’s written statement that OAH did not answer or return his January 17, 2025, and January 24, 2025, calls by the January 27, 2025, deadline to file an application for review, and he delayed filing an application for review because he was awaiting OAH’s response to his voicemail message.

More likely than not, these misunderstandings between claimant and the OAH representative led to claimant receiving incorrect or confusing information about his appeal. Claimant expressed his desire during the call to contest the work separation disqualification based on not having been employed by the alleged employer, and mistakenly believed from his conversation with the OAH representative that withdrawing his request for hearing might accomplish this. Claimant also mistakenly believed from this conversation that he could re-request a hearing by calling OAH within 20 days of December 30, 2024, if withdrawing his original request for hearing was ineffective in reversing the disqualification. Claimant attempted to re-request the hearing within this timeframe, but was unable to speak with anyone at OAH by the January 27, 2025, filing deadline. These events constituted factors beyond claimant’s reasonable control that prevented timely filing. Therefore, good cause has been shown to extend the deadline for timely filing.

The record is silent as to when, if ever, OAH returned claimant's January 2025 calls. It is therefore unclear from the record when precisely claimant discovered that filing a late application for review, rather than re-requesting a hearing through OAH, was his only means of seeking a hearing after dismissal of his original request for hearing. However, given the relatively short amount of time between the January 27, 2025, filing deadline and the February 5, 2025 filing date, it is more likely than not that claimant did not learn this information earlier than seven days prior to February 5, 2025. Therefore, claimant filed the late application for review within a seven-day "reasonable time" after the circumstances that prevented timely filing ended. Accordingly, claimant's late application for review is allowed.

**Withdrawal of request for hearing.** OAR 471-040-0035(1) (August 1, 2004) provides, "An administrative law judge may order that a request for hearing be dismissed upon request from the appellant to withdraw the request for hearing."

Order No. 25-UI-278826 concluded that claimant "withdrew the request for hearing" on December 30, 2024, and therefore dismissed the request for hearing. Order No. 25-UI-278826 at 1. The record does not support that claimant's request to withdraw was knowing and voluntary.

Claimant's statement and OAH's notes, when considered together, suggest that claimant called OAH on December 30, 2024, to refute that he had been employed by Farmers Insurance and could thus be subject to a work separation disqualification based on such employment. Claimant's statement implied that he "initially had declined" to move forward with the hearing during the call, with the understanding that he could re-request a hearing by contacting OAH again by January 19, 2025. EAB Exhibit 1 at 1. As the record does not suggest that claimant ever waived in his belief that he had not been employed by Farmers Insurance and should not be subject to a work separation disqualification, it is reasonable to infer that claimant withdrew his request for hearing based on a misunderstanding that doing so could help reverse the disqualification. Further, that claimant believed his decision to withdraw the hearing request could be changed by simply calling OAH again within 20 days, even after issuance of an order dismissing his request for hearing, shows that claimant did not fully understand the consequences of withdrawing at the time he made that request. Accordingly, claimant did not make a knowing and voluntary request to withdraw his request for hearing, and he is entitled to a hearing on the merits of decision # L0007284664.

For these reasons, claimant's late application for review is allowed. Order No. 25-UI-278826 is reversed and the matter remanded for a hearing on the merits of decision # L0007284664.

**DECISION:** Claimant's late application for review is allowed. Order No. 25-UI-278826 is set aside, and this matter remanded for further proceedings consistent with this order.

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

**DATE of Service:** March 11, 2025

**NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Order No. 25-UI-278826 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 دستور العمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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