

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0110

Reversed & Remanded

PROCEDURAL HISTORY AND FINDINGS OF FACT: On February 26, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause and was disqualified from receiving benefits effective December 3, 2023 (decision # 135231). On March 18, 2024, decision # 135231 became final without claimant having filed a request for hearing.

On September 28, 2024, claimant filed a late request for hearing on decision # 135231. ALJ Kangas considered claimant's request, and on November 21, 2024, issued Order No. 24-UI-274126, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by December 5, 2024. On or around December 8, 2024, claimant filed a late response to the appellant questionnaire. On February 14, 2025, ALJ Kangas issued Order No. 25-UI-283123, concluding that the questionnaire response would not be considered because it was filed late, and re-dismissing claimant's late request for hearing as without good cause. On February 19, 2025, claimant filed an application for review of Order No. 25-UI-283123 with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: EAB did not consider claimant's written argument because she did not state that she provided a copy of her argument to the employer as required by OAR 471-041-0080(2)(a) (May 13, 2019).

CONCLUSIONS AND REASONS: Order No. 25-UI-283123 is set aside and this matter remanded for a hearing on whether to allow claimant's late request for hearing on decision # 135231 and, if so, the merits of that decision.

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 request for hearing on decision # 135231 was due by March 18, 2024. Because claimant did not file her request for hearing until September 28, 2024, the request was late. In her response to the appellant questionnaire, claimant stated that she first received decision # 135231 on September 30, 2024, which was two days after she filed her late request for hearing. Exhibit 3 at 3. Regarding whether there was anything she could have done to meet the timely filing deadline, claimant stated:

I did try getting ahold of someone who could help me with this process, but was never able to get ahold of someone over the phone. When I tried going in person to talk to someone, they redirected me to keep trying to call.

Exhibit 3 at 4. Claimant further stated, regarding why she believed that she had good cause for filing the late request for hearing:

I tried multiple times to get ahold of unemployment, and was never able to get ahold of anyone to help me out on this issue. I tried & tried because this was my first time applying and needed help how to process the right way.

Exhibit 3 at 4. Additionally, the Department’s records contain a note from a contact between claimant and a Department representative on March 27, 2024, stating:

Clmt submitted appeal for Insurance Base but her notes specify that she is appealing the separation. Sent a web notice instructing her to submit a new request for the separation. Once received we will process and forward to OAH. Withdrawing current request as she isn't appealing claim determination.¹

Based on the above, it is not clear when, if at all, claimant received a copy of decision # 135231, or when claimant first filed or attempted to file a request for hearing on that decision. On remand, the ALJ should develop the record as to these points. The ALJ should also inquire as to whether claimant experienced any difficulties, such as delays in receiving mail, that could have prevented her from filing a timely request for hearing; what difficulties, if any, claimant experienced in filing or attempting to file her request for hearing; and when those factors or circumstances ceased.

Order No. 25-UI-283123 therefore is reversed, and this matter remanded for a hearing on whether to allow claimant’s late request for hearing and, if so, the merits of decision # 135231.

DECISION: Order No. 25-UI-283123 is set aside, and this matter remanded for further proceedings consistent with this order.

¹ EAB has taken notice of these facts, which contained in Employment Department records. OAR 471-041-0090(1) (May 13, 2019). 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.

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

DATE of Service: March 13, 2025

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 25-UI-283123 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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