

**EMPLOYMENT APPEALS BOARD DECISION**  
**2025-EAB-0123**

*Reversed*  
*Request to Reopen Allowed*  
*Merits Hearing Required*

**PROCEDURAL HISTORY:** On May 7, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged by the employer for misconduct, disqualifying claimant from receiving benefits effective March 31, 2024 (decision # L0003606298).<sup>1</sup> Claimant filed a timely request for hearing. On July 15, 2024, the Office of Administrative Hearings (OAH) served notice of a hearing scheduled for July 29, 2024. On July 29, 2024, ALJ Wardlow conducted a hearing at which the employer failed to appear. On July 30, 2024, ALJ Wardlow issued Order No. 24-UI-260708, reversing decision # L0003976927 by concluding that claimant was discharged by the employer, but not for misconduct, and was not disqualified from receiving benefits based on the work separation.

On August 9, 2024, the employer filed a timely request to reopen the July 29, 2024, hearing. On November 1, 2024, OAH served notice of a hearing scheduled for November 15, 2024, on whether to allow the employer's reopen request and, if so, another hearing on the merits of decision # L0003976927. On November 15, 2024, ALJ Hall conducted a hearing at which claimant failed to appear. On November 18, 2024, ALJ Hall issued Order No. 24-UI-273684, allowing the employer's request to reopen, canceling Order No. 24-UI-260708, and affirming decision # L0003976927. On December 9, 2024, Order No. 24-UI-273684 became final without claimant having filed a request to reopen the November 15, 2024, hearing.

On February 16, 2025, claimant filed a late request to reopen the November 15, 2024, hearing. ALJ Scott considered claimant's request, and on February 20, 2025, issued Order No. 25-UI-283614, denying the

<sup>1</sup> Decision # L0003976927 stated that claimant was denied benefits beginning April 14, 2024. However, because decision # L0003976927 asserted that claimant was discharged on April 1, 2024, it should have stated that claimant was disqualified from receiving benefits beginning Sunday, March 31, 2024, and until she earned four times her weekly benefit amount. See ORS 657.176.

request and leaving Order No. 24-UI-273684 undisturbed. On February 24, 2025, claimant filed an application for review of Order No. 25-UI-283614 with the Employment Appeals Board (EAB).

**EVIDENTIARY MATTER:** EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence consists of a February 14, 2025, email from an OAH hearings coordinator to claimant, 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, stating 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.

**FINDINGS OF FACT:** (1) In April 2024, claimant filed an initial claim for benefits. At that time, claimant's mailing address was a P.O. Box address in Wasco, Oregon. Claimant informed the Department that the Wasco address was her address of record.<sup>2</sup>

(2) On May 7, 2024, the Department issued decision # L0003976927 concluding that claimant was disqualified from receiving benefits. Claimant requested a hearing on decision # L0003976927. On July 15, 2024, OAH mailed a notice of hearing scheduling a hearing on claimant's hearing request for July 29, 2024. OAH mailed the notice to claimant's Wasco address. Claimant received the notice and appeared at the July 29, 2024, hearing. At the hearing, claimant acknowledged her address of record was the Wasco address. July 29, 2024, Audio Record at 3:49 to 4:08.

(3) On July 30, 2024, ALJ Wardlow issued Order No. 24-UI-260708. The order was favorable to claimant because it reversed decision # L0003976927 by concluding that claimant's discharge by the employer was not for misconduct and did not disqualify claimant from receiving benefits. OAH mailed Order No. 24-UI-260708 to claimant's Wasco address. Exhibit 7 at 5.

(4) Claimant received Order No. 24-UI-260708. Exhibit 5 at 1. Order No. 24-UI-260708 contained information advising the parties of the right to appeal the order or request a reopening of the July 29, 2024, hearing. Exhibit 7 at 3. On August 9, 2024, the employer filed a motion to reopen the July 29, 2024, hearing.

(5) Although the employer filed a motion to reopen on August 9, 2024, they did not serve claimant with the reopen request. Claimant did not otherwise receive notice that, because of the employer's reopen request, the appeal of decision # L0003976927 remained pending.

(6) After receiving Order No. 24-UI-260708 but before November 1, 2024, claimant moved from Wasco, Oregon to Goldendale, Washington. Claimant did not update her new address with OAH.

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<sup>2</sup> EAB has taken notice of the facts contained in this paragraph, which are contained in Employment Department records. OAR 471-041-0090(1). Any party that objects to EAB taking notice of this information must send their objection to EAB in writing, stating 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 noticed facts will remain in the record.

(7) Claimant claimed benefits in a continuous sequence for the weeks from April 14 through August 24, 2024 (weeks 16-24 through 34-24).<sup>3</sup>

(8) On November 1, 2024, OAH served notice of a hearing scheduled for November 15, 2024, on the employer's reopen request. OAH mailed the hearing notice to claimant's old address in Wasco and claimant did not receive it. Exhibit 3 at 3. As a result, claimant was unaware that the hearing had been scheduled.

(9) On November 15, 2024, ALJ Hall conducted a hearing at which claimant failed to appear. On November 18, 2024, ALJ Hall issued Order No. 24-UI-273684, allowing the employer's request to reopen, canceling Order No. 24-UI-260708, and affirming decision # L0003976927's conclusion that claimant was disqualified from receiving benefits. OAH mailed Order No. 24-UI-273684 to claimant's old address in Wasco and claimant did not receive it. Exhibit 4 at 8. On December 9, 2024, Order No. 24-UI-273684 became final without claimant having filed a request to reopen the November 15, 2024, hearing.

(10) On December 10, 2024, the U.S. Postal Service returned to OAH as undeliverable the November 1, 2024, notice of hearing that OAH had sent to claimant's old address in Wasco.<sup>4</sup>

(11) On February 14, 2025, claimant called OAH and spoke to a hearings coordinator. EAB Exhibit 1 at 1. That morning, the hearings coordinator sent claimant an email memorializing the call, attaching Order No. 24-UI-273684 and the November 15, 2024, hearing audio, pointing out where the instructions for a request to reopen were located on the order, and advising that OAH had updated claimant's address to the address in Goldendale, Washington. EAB Exhibit 1 at 1.

(12) On February 16, 2025, claimant filed a late request to reopen the November 15, 2024, hearing. In the request, claimant stated:

I am requesting a review of a decision that was made which reversed the original judgment. I did not receive any notice of this new hearing as I had moved and the Unemployment mail did not get forwarded to me, making me completely unaware. I also did not receive any notification through the Francis [sic] online system.

Exhibit 5 at 1.

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<sup>3</sup> EAB has taken notice of the facts contained in this paragraph, which are contained in Employment Department records. OAR 471-041-0090(1). Any party that objects to EAB taking notice of this information must send their objection to EAB in writing, stating 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 noticed facts will remain in the record.

<sup>4</sup> EAB has taken notice of the facts contained in this paragraph, which are contained in Employment Department records. OAR 471-041-0090(1). Any party that objects to EAB taking notice of this information must send their objection to EAB in writing, stating 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 noticed facts will remain in the record.

(13) On February 20, 2025, ALJ Scott issued Order No. 25-UI-283614 denying claimant's request to reopen. On February 24, 2025, claimant filed an application for review of Order No. 25-UI-283614 with the Employment Appeals Board (EAB).

**CONCLUSIONS AND REASONS:** Claimant's request to reopen is allowed. Order No. 25-UI-283614 is reversed, Order No. 24-UI-273684 is cancelled, and another hearing on the merits of decision # L0003976927 is required.

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. The period within which a party may request reopening may be extended if the party requesting reopening has good cause for failing to request reopening within the time allowed, and acts within a reasonable time. OAR 471-040-0041(1) (February 10, 2012). "Good cause" exists when an action, delay, or failure to act arises from an excusable mistake or from factors beyond an applicant's reasonable control. OAR 471-040-0041(2). "A reasonable time" is seven days after the circumstances that prevented a timely filing ceased to exist. OAR 471-040-0041(3). The party requesting reopening shall set forth the reason(s) for filing a late request to reopen in a written statement, which OAH shall consider in determining whether good cause exists for the late filing, and whether the party acted within a reasonable time. OAR 471-040-0041(4). Under OAR 471-040-0041(2)(b)(A), "good cause" does not include failure to receive a document due to not notifying the Department or OAH of an updated address while the person is claiming benefits or if the person knows, or reasonably should know, of a pending appeal.

The order under review denied claimant's request to reopen. Order No. 25-UI-283614 at 3-4. The order stated that claimant did not provide an explanation in her reopen request for why she did not file her request to reopen by the December 9, 2024, deadline. Order No. 25-UI-283614 at 3. The order also stated that claimant did not provide "any reasonable explanation" in the request for why she did not attend the November 15, 2024, hearing. Order No. 25-UI-283614 at 4. The order concluded that claimant had not established good cause for missing the November 15, 2024, hearing or for filing the reopen request late and therefore denied the request. Order No. 25-UI-283614 at 4. The record does not support these conclusions.

In claimant's written statement supporting her reopen request, claimant stated that she did not receive notice of the November 15, 2024, hearing because she had moved. Exhibit 5 at 1. She further stated that "the Unemployment mail" (including, it is reasonable to infer, the hearing notice for the November 15, 2024, hearing) was not forwarded to her, and she was not notified of the hearing via her Frances Online account. Exhibit 5 at 1. This explains why claimant did not attend the November 15, 2024, hearing.

It also explains why she did not file her request to reopen by the December 9, 2024, deadline. The December 9, 2024, deadline was contained in Order No. 24-UI-273684. That order was, it is reasonable to infer, also a part of "the Unemployment mail" claimant did not receive because of her move and which was not being forwarded to her new address or conveyed to her electronically via her Frances Online account. Exhibit 5 at 1. Because Order No. 24-UI-273684 was not forwarded to her new address or conveyed to her via Frances Online, claimant was unaware of the December 9, 2024, deadline. Claimant could not comply with a deadline of which she was not aware.

Claimant established good cause for filing her reopen request late and for failing to appear at the November 15, 2024, hearing. The record shows that at a point in time after July 30, 2024, but before November 1, 2024, claimant moved from Wasco, Oregon to Goldendale, Washington. Claimant did not immediately update her new address with OAH. As a result, the November 1, 2024, hearing notice and Order No. 24-UI-273684 were sent to claimant's old address and not forwarded, and claimant therefore did not receive them. As claimant did not receive the documents and was unaware of the November 15, 2024, hearing and the December 9, 2024, deadline to file a reopen request, factors beyond her reasonable control prevented her from appearing at the November 15, 2024, hearing and from filing her reopen request by December 9, 2024.

This is the case even though, under OAR 471-040-0041(2)(b)(A), "good cause" does not include failure to receive a document due to not notifying OAH of an updated address while the person is claiming benefits or if the person knows, or reasonably should know, of a pending appeal. First, claimant was not claiming benefits at the time the November 1, 2024, hearing notice and Order No. 24-UI-273684 were mailed. Claimant last claimed benefits for the week of August 18 through 24, 2024 (week 34-24), and the hearing notice and Order No. 24-UI-273684 were mailed some months later, on November 1 and 18, 2024, respectively.

Second, the record shows that claimant did not know, or reasonably should have known, of a pending appeal at the time she moved and failed to update her address with OAH. On July 30, 2024, ALJ Wardlow issued Order No. 24-UI-260708. That order was favorable to claimant because it reversed decision # L0003976927 and concluded that claimant was *not* disqualified from receiving benefits. Claimant received Order No. 24-UI-260708 in the mail and from that point onward had reason to believe that she was the prevailing party and that the appeal had concluded. Although the employer filed a motion to reopen on August 9, 2024, they did not serve claimant with the reopen request. Claimant did not otherwise receive notice that, because of the employer's reopen request, the appeal of decision # L0003976927 remained pending. Therefore, when claimant moved to Goldendale after receiving Order No. 24-UI-260708 but before November 1, 2024, she did not know, nor reasonably should she have known, of a pending appeal.

The factors beyond claimant's reasonable control that prevented her from appearing at the November 15, 2024, hearing and from filing her reopen request by the December 9, 2024, deadline continued until February 14, 2025. On that date, claimant called OAH and spoke with an OAH hearings coordinator. On the same day, the coordinator sent claimant an email that, among other things, included Order No. 24-UI-273684 and the November 15, 2024, hearing audio as attachments, and pointed out where the instructions for filing a request to reopen were located on the order. *See* EAB Exhibit 1 at 1. Upon receipt of these materials, the factors beyond claimant's reasonable control ended. Two days later, on February 16, 2025, claimant filed her request to reopen, which was within a seven-day "reasonable time."

Accordingly, claimant established good cause to reopen the November 15, 2024, hearing and for filing her reopen request late, and filed within a reasonable time. Claimant's request to reopen is therefore allowed. Order No. 25-UI-283614 is reversed, Order No. 24-UI-273684 is cancelled, and claimant is entitled to a hearing on the merits of decision # L0003976927.

Note that testimony has been taken from the parties in separate hearings, with claimant testifying on July 29, 2024, in a hearing conducted by ALJ Wardlow at which the employer failed to appear, and the employer offering testimony on November 15, 2024, in a hearing conducted by ALJ Hall at which claimant failed to appear. On remand, the parties are entitled to cross examine witnesses and offer rebuttal evidence. Because of the unusual procedural history, it may also be efficient and advisable to permit the parties to reiterate the testimony they offered on the merits in the earlier hearings.

Note further that Department records show that claimant has not updated her address with the Department to the Goldendale, Washington address. Although claimant did so with OAH on February 14, 2025, updating one's address with OAH does not automatically update the address with the Department. Claimant therefore may wish to contact the Department and update her address.

**DECISION:** Order No. 25-UI-283614 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 26, 2025

**NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Order No. 25-UI-283614 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.

**Employment Appeals Board - 875 Union Street NE | Salem, OR 97311**

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El Departamento de Empleo de Oregon es un programa que respeta la igualdad de oportunidades. Disponemos de servicios o ayudas auxiliares, formatos alternos y asistencia de idiomas para personas con discapacidades o conocimiento limitado del inglés, a pedido y sin costo.