

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0158

Affirmed
Request to Reopen Denied

PROCEDURAL HISTORY: On March 12, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant had failed to register for work in accordance with the Department's rules and therefore was ineligible to receive unemployment insurance benefits effective February 11, 2024 (decision # L0003233559). Claimant filed a timely request for hearing. On December 31, 2024, the Office of Administrative Hearings (OAH) served notice of a hearing scheduled for January 21, 2025. On January 21, 2025, claimant failed to appear at the hearing, and ALJ Frank issued Order No. 25-UI-280342, dismissing claimant's request for hearing due to his failure to appear. On January 30, 2025, claimant filed a timely request to reopen the hearing. On February 21, 2025, ALJ Chiller conducted a hearing at which the Department failed to appear, and on February 25, 2025, issued Order No. 25-UI-284093, denying claimant's request to reopen the hearing and leaving Order No. 25-UI-280342 undisturbed. On March 6, 2025, claimant filed an application for review of Order No. 25-UI-284093 with EAB.

FINDINGS OF FACT: (1) On December 31, 2024, OAH served notice of a hearing scheduled for January 21, 2025, at 7:15 a.m.

(2) Claimant received the notice of hearing prior to the hearing itself, with "plenty of notice" to attend the hearing. Audio Record at 11:30.

(3) On January 19, 2025, claimant's elderly mother, after a series of falls in her home, fell again and was hospitalized from the resulting injuries. After this latest fall, claimant and his stepfather realized that claimant's mother could no longer safely navigate her home on foot and would require the use of a wheelchair. However, claimant's mother resisted the use of a wheelchair, as it would restrict her from accessing certain areas of her house. As a means of compromise to convince claimant's mother to use a wheelchair, claimant's stepfather enlisted claimant, a carpenter by trade, to build ramps over the stairs in the house so that claimant's mother could navigate it freely in a wheelchair.

(4) On January 20, 2025, claimant travelled from his home in Salem, Oregon to his mother and stepfather's home in East Springfield, Oregon to build ramps for his mother. Claimant did not bring the

notice of hearing with him because he intended to be back at his own home the following morning to attend the hearing. However, the ramp installation project took considerably longer than he anticipated, and he worked on it well into the night before falling asleep at his mother and stepfather's home. Claimant did not set an alarm to wake him for the hearing the following morning because he was "exhausted [and] overwhelmed and . . . just didn't think about it." Audio Record at 15:23.

(5) On the morning of January 21, 2025, claimant slept through the 7:15 a.m. hearing because he had stayed up late working on the ramp project. Claimant did not wake up that morning until approximately 9:00 a.m.

CONCLUSIONS AND REASONS: Claimant's request to reopen is denied. Order No. 25-UI-280342 remains undisturbed.

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 determining whether good cause exists for failing to appear at the hearing. OAR 471-040-0040(3).

Claimant filed his request to reopen the hearing within 20 days of the date on which Order No. 25-UI-280342 was issued, and also included with the request a written explanation of why he failed to appear at the hearing. *See* Exhibit 1 at 1. Claimant's request therefore followed the requirements of OAR 471-040-0040(1)(b) and (3). However, claimant has not met his burden to show that he had good cause for failing to appear at the January 21, 2025, hearing.

The record shows that claimant received the notice of hearing with sufficient time to prepare for it, and had planned to attend the hearing, but that he did not appear at the hearing because he had stayed up late into the night prior to the hearing completing a project for his mother, causing him to oversleep. Claimant's position is sympathetic. The record suggests that there was some urgency to completing the ramp installation project, as a delay in doing so might have led claimant's mother to continue refusing to use a wheelchair and risk another fall in her home. Nevertheless, to show good cause for failing to appear at the hearing, claimant's failure to appear must have been the result of either an excusable mistake or factors beyond his reasonable control. Claimant's circumstances do not constitute either of these.

While claimant may understandably have felt a sense of urgency to complete the ramp installation project, nothing in the record suggests that it was beyond his reasonable control to begin the project after the hearing, or to slightly delay completion of the project so that he could return home or go to sleep early enough to wake up for the hearing. Similarly, even if claimant felt compelled to complete the project before going to sleep, it was well within his ability to either take the notice of hearing with him when he left for his mother's home on January 20, 2025, or copy the details of the hearing into his phone; and to set an alarm to ensure that he woke up early enough to attend the hearing the next

morning. Therefore, claimant has not shown that he failed to attend the hearing due to factors beyond his reasonable control.

Likewise, while claimant's failure to take the details of the hearing with him when he visited his mother's home the day before the hearing, and his decisions to work late into the night and go to sleep without setting an alarm for the following morning, were likely the results of claimant's mistaken belief that he would be back at his own home in time to attend the hearing or wake up in time to attend the hearing. However, this was not an "excusable mistake" within the meaning of the administrative rules because it did not, for example, raise a due process issue, and was not the result of inadequate notice, reasonable reliance on another, or the inability to follow directions despite substantial efforts to comply.

For the above reasons, claimant has not shown good cause for failing to appear at the January 21, 2025, hearing. Claimant's request to reopen the hearing is therefore denied, and Order No. 25-UI-280342 remains undisturbed.

DECISION: Order No. 25-UI-284093 is affirmed.

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

DATE of Service: April 4, 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 دستورالعمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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

Phone: (503) 378-2077 | 1-800-734-6949 | Fax: (503) 378-2129 | TDD: 711

Email: appealsboard@employ.oregon.gov

Website: www.Oregon.gov/employ/pages/employment-appeals-board.aspx

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