

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

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0190

Affirmed
Request to Reopen Denied

PROCEDURAL HISTORY: On September 13, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged for misconduct and was therefore disqualified from receiving unemployment insurance benefits effective August 18, 2024 (decision # L0006124425).¹ Claimant filed a timely request for hearing. On October 25, 2024, notice was mailed to the parties that a hearing had been scheduled for November 12, 2024. On November 12, 2024, claimant failed to appear at the hearing, and ALJ Adamson issued Order No. 24-UI-272897, dismissing the request for hearing due to claimant's failure to appear. On November 19, 2024, claimant filed a timely request to reopen the November 12, 2024, hearing. On November 25, 2024, the Office of Administrative Hearings (OAH) mailed a letter stating that Order No. 24-UI-272897 was vacated and that a hearing would be scheduled to determine whether claimant's request to reopen should be allowed and, if so, the merits of decision # L0006124425. On February 3, 2025, ALJ Monroe conducted a hearing, and on March 3, 2025, issued Order No. 25-UI-284645, denying claimant's request to reopen and re-dismissing claimant's request for hearing due to her failure to appear at the November 12, 2024, hearing. On March 24, 2025, claimant filed an application for review of Order No. 25-UI-284645 with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant did not state that she provided a copy of her March 24, 2025, April 18, 2025, or April 19, 2025, arguments to the employer as required by OAR 471-041-0080(2)(a) (May 13, 2019). The March 24, 2025, argument also contained information that was not part of the hearing record and did not show that factors or circumstances beyond claimant's reasonable control prevented her from offering the information during the hearing as required by OAR 471-041-0090 (May 13, 2019). Claimant admitted that she did not offer the new information contained in the March 24,

¹ Decision # L0006124425 stated that claimant was denied benefits from August 18, 2024 to August 16, 2025. However, decision # L0006124425 should have stated that claimant was disqualified from receiving benefits beginning Sunday, August 18, 2024 and until she earned four times her weekly benefit amount. *See* ORS 657.176.

2025, argument at the February 3, 2025, hearing, which related to why she missed the November 12, 2024, hearing. Claimant's March 24, 2025, Argument at 2. Claimant explained that her failure to offer the information earlier was "[d]ue to the shame and distress surrounding [her] situation," and that she "was unable to fully disclose [her] circumstances when asked during [the hearing], particularly in the presence of [her] former employer[.]" Claimant's March 24, 2025, Argument at 2. While testifying to these additional details may have been uncomfortable for claimant, as they involved her living situation and her mother's health, the ability to offer such testimony was within claimant's reasonable control. Further, the new information in the April 18, 2025, and April 19, 2025, arguments was not relevant and material to EAB's determination of claimant's request to reopen, as it pertained only to the merits of the work separation. These arguments were not considered for that additional reason. ORS 657.275(2) and OAR 471-041-0090(1)(b)(A). Accordingly, EAB considered only the information received into evidence at the hearing. *See* ORS 657.275(2).

FINDINGS OF FACT: (1) On October 25, 2024, OAH mailed notice of a hearing scheduled for Tuesday, November 12, 2024, at 10:45 a.m. to claimant's address of record. Claimant received the notice prior to the hearing date and planned to attend the hearing.

(2) On Monday, November 11, 2024, Veterans Day was observed, and some businesses and governmental offices were closed. This led claimant to mistakenly perceive it as a weekend day, and Tuesday, November 12, 2024, as Monday of that week. Claimant recalled the hearing as having been scheduled for Tuesday of that week.

(3) On November 12, 2024, claimant failed to attend the hearing because she failed to realize that the day of the week was Tuesday, rather than Monday, and therefore mistakenly believed that the hearing would be held the following day. Later on November 12, 2024, Order No. 24-UI-272897 was issued, dismissing claimant's request for hearing due to her failure to appear.

(4) On November 19, 2024, claimant filed a request to reopen the November 12, 2024, hearing.

CONCLUSIONS AND REASONS: Claimant's request to reopen the November 12, 2024, hearing is denied.

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's request to reopen was filed within 20 days of the date Order No. 24-UI-272897 was mailed, and contained a written statement explaining claimant's reason for missing the hearing. Exhibit 3 at 4. Therefore, claimant's request met the threshold requirements for consideration.

Claimant failed to appear at the November 12, 2024, hearing because she believed that day was Monday, November 11, 2024. Claimant explained that business closures related to the Veterans Day holiday made Monday, November 11, 2024, seem as if it were a Sunday, and it “completely threw [her] routine off.” Audio Record at 20:48. Claimant therefore mistakenly perceived November 12, 2024, as November 11, 2024, and believed that her hearing would take place on the day following the day it was actually held.

While claimant’s failure to attend the hearing was the result of a mistake, it 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. Moreover, ascertaining the correct dates and days of the week on November 11, 2024, and November 12, 2024, was, more likely than not, within claimant’s reasonable control. Accordingly, claimant has not shown good cause for failing to appear at the November 12, 2024, hearing, and the request to reopen is denied.

DECISION: Order No. 25-UI-284645 is affirmed.

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

DATE of Service: April 23, 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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