

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0253

Reversed & Remanded

PROCEDURAL HISTORY: On July 25, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was not available for work during the week of July 7, 2024, to July 13, 2024 (week 28-24) and was therefore not eligible to receive unemployment insurance benefits for that week (decision # L0005335943). Claimant filed a timely request for hearing. On February 5, 2025, the Office of Administrative Hearings (OAH) served notice of a hearing on decision # L0005335943 scheduled for February 18, 2025. On February 18, 2025, claimant failed to appear for the hearing, and on February 19, 2025, ALJ Schmidt issued Order No. 25-UI-283462, dismissing claimant's request for hearing based upon their failure to appear. On March 11, 2025, Order No. 25-UI-283462 became final without claimant having filed a request to reopen the February 18, 2025, hearing.

On March 26, 2025, claimant filed a late request to reopen the February 18, 2025, hearing. ALJ Kangas considered claimant's request and, on April 15, 2025, issued Order No. 25-UI-289508, denying claimant's late request to reopen, and leaving Order No. 25-UI-283462 undisturbed. On April 25, 2025, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: EAB considered claimant's written argument in reaching this decision.

FINDINGS OF FACT: (1) Claimant's address of record was a post office (P.O.) box address. Prior to February 5, 2025, claimant lost access to their P.O. box due to their inability to pay for it.

(2) On July 30, 2024, claimant filed a timely request for hearing on decision # L0005335943. Approximately six months later, on February 5, 2025, OAH served notice of a hearing on decision # L0005335943 scheduled for February 18, 2025. The hearing notice was sent to claimant's P.O. box. Since claimant could not access the P.O. box, she did not receive the notice and was not aware of the February 18, 2025, hearing date.

(3) On February 18, 2025, claimant failed to appear for the hearing, and on February 19, 2025, ALJ Schmidt issued Order No. 25-UI-283462, dismissing claimant's request for hearing based upon their failure to appear.

(4) Order No. 25-UI-283462 stated as follows:

If you did not appear at the hearing, you may request to reopen the hearing. These requests are governed by OAR 471-040-0040 and 471-040-0041 and should be filed with the Office of Administrative Hearings. Your request to reopen the hearing must: 1) be in writing; 2) show good cause for failing to appear at the hearing; ‘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; and 3) either be filed within 20 days of when the order from the hearing you missed was mailed, or else show good cause to extend the period to request reopening of your case, and show that you filed your reopen request within seven days of when those factors or circumstances ceased to exist. Include all information regarding your reopen request that you want the Administrative Law Judge to consider when deciding whether to grant your reopen request.

Order No. 25-UI-283462 at 2. The Certificate of Mailing for Order No. 25-UI-283462 also stated, **“If you failed to appear for the hearing, you may request that your case be reopened. For directions regarding reopening, please refer to the enclosed information.”** (Emphasis in original).

(5) On March 11, 2025, Order No. 25-UI-283462 became final without claimant having filed a request to reopen the February 18, 2025, hearing.

(6) At some point after February 18, 2025, claimant regained access to their P.O. box. On a date prior to March 26, 2025, claimant received Order No. 25-UI-283462 and saw its instructions regarding how to file a request to reopen.

(7) On March 26, 2025, claimant filed a late request to reopen the February 18, 2025, hearing.

CONCLUSIONS AND REASONS: Order No. 25-UI-289508 is set aside and the matter remanded for a hearing on whether claimant had good cause to file their late request to reopen and, if so, the merits of decision # L0005335943.

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).

The order under review denied claimant's late request to reopen, concluding that claimant did not show good cause for failing to file their request by the March 11, 2025, deadline. Order No. 25-UI-289508 at 3-4. The record as developed does not support the conclusion of the order under review.

In their request to reopen, claimant explained, "I missed my appointment because I couldn't pay my P.O. Box." Exhibit 5 at 2. That information implies that claimant, who filed their request for hearing some six months before the date OAH scheduled to hear the matter, lost access to their P.O. box prior to February 5, 2025, and so did not receive the notice of hearing, or did not receive it before the hearing. Having not received the hearing notice, claimant missed the February 18, 2025, hearing because they did not know about it. Thus, the information claimant submitted, along with reasonable inferences drawn therefrom, is sufficient to demonstrate that circumstances beyond claimant's reasonable control prevented them from attending the hearing. Claimant therefore established good cause for their failure to appear at the February 18, 2025, hearing.

However, claimant did not file their request to reopen the hearing they missed within 20 days of the February 19, 2025, date on which Order No. 25-UI-283462 was issued. The deadline to file a timely request to reopen was March 11, 2025, and claimant did not file their reopen request until March 26, 2025. As a result, under OAR 471-040-0041, claimant must show: (1) that they had good cause for failing to request reopening of the hearing by the timely filing deadline, and (2) that they filed their request to reopen within seven days after the circumstances that prevented them from filing the request by the deadline had ended.

The fact that claimant ultimately filed a reopen request suggests that they regained access to their P.O. box or otherwise obtained the mail that had been delivered there, saw Order No. 25-UI-283462's instructions regarding how to file a request to reopen, and filed the request to reopen in accordance with those instructions. Claimant's circumstances may therefore be sufficient to establish good cause to extend the period within which claimant could file their request to reopen, so long as claimant acted within a "reasonable time" in filing the late request to reopen.

On remand, inquiry should be made as to when claimant regained access to their P.O. box, or otherwise obtained the mail that had been delivered there, and when claimant received Order No. 25-UI-283462. The ALJ should ask whether claimant otherwise had notice of the timely filing deadline to request reopening of the February 18, 2025, hearing, and if so, why claimant failed to meet the timely filing deadline to reopen the hearing. The record should also be developed as to whether claimant's March 26, 2025, late request to reopen was filed within the seven-day "reasonable time" period after the circumstances that prevented claimant from filing a timely request to reopen ended. To this end, the ALJ should ask, for example, when claimant regained access to their P.O. box and whether that was within seven days of March 26, 2025. The ALJ should also ask when claimant learned for the first time of Order No. 25-UI-283462's existence and the option to file a reopen request.

The remand hearing will be to determine if claimant had good cause for filing their request to reopen late and acted within a reasonable time after the circumstances that prevented a timely filing ended. If claimant meets that burden, the issue of whether claimant had good cause to fail to appear at the

February 18, 2025, is resolved in claimant's favor by existing evidence,¹ and the ALJ should therefore proceed to conducting a hearing on the merits of decision # L0005335943.

DECISION: Order No. 25-UI-289508 is set aside, and this matter remanded for further proceedings consistent with this order.

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

DATE of Service: May 28, 2025

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 25-UI-289508 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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¹ Should the evidence on remand contradict the inference that claimant lost access to their P.O. box prior to February 5, 2025 and so did not receive the notice of hearing, and then missed the February 18, 2025 hearing because they did not know about it, it may be appropriate to conduct inquiry on and decide the issue of whether claimant had good cause to reopen the February 18, 2025 hearing.



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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