

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0263

Reversed
Late Request for Hearing Allowed
Merits Hearing Required

PROCEDURAL HISTORY: On August 16, 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 beginning January 21, 2024, and was overpaid benefits \$473 in benefits to which she was not entitled and must repay (decision # L0005815698).¹ On September 5, 2024, decision # L0005815698 became final without claimant having filed a request for hearing.

On October 25, 2024, claimant filed a late request for hearing. ALJ Kangas considered claimant's request, and on October 30, 2024 issued Order No. 24-UI-271449, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by November 13, 2024. On November 5, 2024, claimant filed a timely response to the appellant questionnaire. On April 15, 2025, ALJ Frank conducted a hearing, and on April 23, 2025 issued Order No. 25-UI-290413, dismissing claimant's request for hearing as late without good cause and leaving decision # L0005815698 undisturbed. On April 29, 2025, claimant filed an application for review of Order No. 25-UI-290413 with the Employment Appeals Board (EAB).

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

FINDINGS OF FACT: (1) On August 16, 2024, the Department mailed decision # L0005815698 to claimant's address on file with the Department. Decision # L000581569 stated, "You have the right to appeal our decision and request a hearing if you believe our decision is wrong. We must receive your request for a hearing no later than **September 5, 2024.**" Exhibit 1 at 9 (emphasis in original).

¹ Decision # L0005815698 stated that claimant was denied benefits from January 21, 2024 to January 11, 2025. However, decision # L0005815698 should have stated that claimant was disqualified from receiving benefits beginning January 21, 2024 and until she earned four times her weekly benefit amount. See ORS 657.176.

(2) Claimant did not receive decision # L0005815698 in the mail. Claimant lived in an apartment complex, and at times received her neighbor's mail, which led her to believe that sometimes her mail was mis-delivered to others.

(3) On October 11, 2024, claimant received in the mail a billing statement for the overpayment reflected in decision # L0005815698. At that time, decision # L0005815698 was available to be viewed in claimant's Frances Online account. However, claimant lacked access to her Frances Online account because her password did not work. Exhibit 1 at 4.

(4) On October 21, 2024, claimant contacted the Department regarding the October 11, 2024 billing statement. Claimant spoke with a Department representative who advised that the overpayment was reflected in decision # L0005815698, and that the administrative decision had been mailed to claimant's address. Claimant stated that she had not received the decision in the mail. The representative then assisted claimant in resetting her Frances Online password, and claimant accessed decision # L0005815698 for the first time.²

(5) On October 25, 2024, claimant filed a late request for hearing on decision # L0005815698.

CONCLUSIONS AND REASONS: Order No. 25-UI-290413 is reversed, claimant's late request for hearing is allowed, and a hearing on the merits of decision # L0005815698 is required.

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 order under review concluded that claimant failed to show good cause to allow the late request for hearing because claimant did not file her hearing request within a seven-day reasonable time of when the factors preventing a timely filing had ended. Order No. 25-UI-290413 at 2-3. The record does not support this conclusion.

The deadline to file a request for hearing on decision # L0005815698 was September 5, 2024. Because claimant did not file her request for hearing until October 25, 2024, the hearing request was late.

Claimant established good cause to extend the deadline to file a request for hearing on decision # L0005815698. Claimant did not receive decision # L0005815698 in the mail. Though claimant received a billing statement on October 11, 2024 regarding the overpayment reflected in decision # L0005815698, the record does not show that the billing statement advised claimant of the substance of decision # L0005815698 or of her right to appeal the decision. Though decision # L0005815698 was viewable in claimant's Frances Online account, claimant lacked access to Frances Online because her

² EAB has taken notice of the facts contained in this paragraph, which are contained in Employment Department records. OAR 471-041-0090(1) (May 13, 2019). 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 fact(s) will remain in the record.

password did not work. Thus, claimant's failure to receive decision # L0005815698 in the mail, and her lack of access to Frances online were circumstances beyond her reasonable control that prevented her from requesting a hearing in a timely manner.

That circumstance ended on October 21, 2024, when, through the assistance of a Department representative, claimant gained access to her Frances Online account, and accessed decision # L0005815698 for the first time. On October 25, 2024, within seven days of October 21, 2024, claimant filed a request for hearing on decision # L0005815698.

Accordingly, claimant established good cause to extend the deadline to file a request for hearing on decision # L0005815698, and filed within a seven-day "reasonable time." Order No. 25-UI-290413 therefore is reversed, claimant's late request for hearing is allowed, and claimant is entitled to a hearing on the merits of decision # L0005815698.

DECISION: Order No. 25-UI-290413 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: June 4, 2025

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 25-UI-290413 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 دستور العمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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