

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0266

Reversed
Request for Hearing Timely Filed
Merits Hearing Required

PROCEDURAL HISTORY: On December 26, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was not available to work and therefore was not eligible for benefits from November 24, 2024 until the reason for the denial had ended (Decision # L0007964106).¹ On January 10, 2025, claimant filed a request for hearing that was not recognized by the Department. On January 15, 2025, decision # L0007964106 was treated as having become final without claimant having filed a request for hearing. On April 9, 2025, claimant filed a late request for hearing on decision # L0007964106.

ALJ Kangas considered claimant's request, and, on April 16, 2025, issued Order No. 25-UI-289713 dismissing claimant's April 9, 2025 request for hearing as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by April 30, 2025. On May 5, 2025, claimant filed a late response to the appellant questionnaire and a timely application for review of Order No. 25-UI-289713 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 is claimant's appellant questionnaire response, 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, saying 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) On December 26, 2024, the Department mailed decision # L0007964106 to claimant's address on file with the Department. Decision # L0007964106 stated, "You have the right to

¹ Decision # L0007964106 stated that the period of ineligibility for benefits would end on November 22, 2025. However, availability to work is determined for each benefit week claimed, and therefore the ineligibility period here should continue until the reason for the denial ends.

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 **January 15, 2025.**” Exhibit 1 at 2 (emphasis in original).

(2) Decision # L0007964106 also stated, “You may request a hearing in one of the following ways,” and under a bullet point, listed two telephone numbers through which claimant could call the Department to request a hearing. Exhibit 1 at 2.

(3) On January 10, 2025, claimant called the Department about decision # L0007964106 and spoke with a representative. The Department representative documented the call as: “[I]nform to refer to letter issued 12/24/24 regarding Eligibility Decision, provided steps how to appeal.” Although decision # L0007964106 was mailed to claimant on December 26, 2024, the Department referred to the decision in its records internally by the December 24, 2024 date on which it was finalized.²

(4) Following claimant’s January 10, 2025 telephone conversation with a Department representative, claimant remained “confused on what was happening with [them] trying to get benefits and getting denied[.]” EAB Exhibit 1 at 2. Claimant visited a WorkSource Oregon office for assistance. In late March 2025, claimant used Frances Online to have a live chat with a Department representative, during which the representative advised claimant he could appeal decision # L0007964106, and provided information on how to submit a hearing request through his Frances Online account.³

(5) On April 9, 2025, claimant again used Frances Online to have a live chat with a Department representative. During the chat, the representative completed the steps of filing a late request for hearing on decision # L0007964106 on claimant’s behalf through Frances Online. Exhibit 2 at 5.

CONCLUSIONS AND REASONS: Claimant filed a timely request for hearing on decision # L0007964106 and is entitled to a hearing on the merits of that decision.

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.

A request for hearing on decision # L0007964106 was due by January 15, 2025. The record shows that claimant, with the assistance of a Department representative during a live chat, filed a request for hearing on decision # L0007964106 on April 9, 2025, which was late. However, claimant’s January 10,

² 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.

³ EAB has taken notice of this fact, which is 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 fact will remain in the record.

2025 telephone conversation with a Department representative also constituted a request for hearing. Accordingly, claimant filed a timely request for hearing on decision # L0007964106 on January 10, 2025.

Under OAR 471-040-0005(2)(a) (July 15, 2018), an individual may request a hearing on an administrative decision related to payment of benefits by “mail, fax, e-mail, or other means as designated by [the] Employment Department[.]” Use of forms provided by the Department or similar offices for requesting a hearing is not required so long as the individual “expresses a present intent to appeal and it can be determined what issue or decision is being appealed.” OAR 471-040-0005(1).

Here, the Department designated calling the Department as means of filing a hearing request by stating on decision # L0007964106, “You may request a hearing in one of the following ways,” and under a bullet point, listed two telephone numbers through which claimant could call the Department to request a hearing. Exhibit 1 at 2. Further, the Department representative’s documentation of the January 10, 2025 call is sufficient evidence to show that claimant had a present intent to appeal decision # L0007964106. The representative’s note identified decision # L0007964106 as the decision they spoke about with claimant, and so it can be determined that decision # L0007964106 was the issue or decision being appealed. Additionally, the representative’s note supports an inference that claimant expressed an interest in appealing to the representative and asked how to do so, as the note states that the representative told claimant the steps involved in requesting a hearing. The evidence therefore establishes that claimant conveyed a present intent to appeal decision # L0007964106 to the representative during the January 10, 2025 call, and accordingly, the call constituted a timely request for hearing.

For these reasons, claimant filed a timely request for hearing on decision # L0007964106 and is entitled to a hearing on the merits of the decision.

DECISION: Order No. 25-UI-289713 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 6, 2025

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 25-UI-289713 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.

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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.