

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

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0277-R

Request for Reconsideration Allowed
EAB Decision 2025-EAB-0277 Reversed on Reconsideration
Order No. 25-UI-290375 Reversed
Late Request for Hearing Allowed
Merits Hearing Required

PROCEDURAL HISTORY: On March 26, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision denying claimant's request to backdate his initial claim to January 12, 2025 (decision # L0009926331). On April 15, 2025, decision # L0009926331 became final without claimant having filed a request for hearing. On April 21, 2025, claimant filed a late request for hearing on decision # L0009926331. ALJ Kangas considered claimant's request, and on April 23, 2025, issued Order No. 25-UI-290375, dismissing claimant's request for hearing as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by May 7, 2025. On April 29, 2025, claimant filed an application for review with the Employment Appeals Board (EAB). On May 29, 2025, EAB issued EAB Decision 2025-EAB-0277, dismissing claimant's late request for hearing without prejudice. On June 2, 2025, claimant filed a timely request for reconsideration. This decision is issued pursuant to EAB's authority under ORS 657.290(3).

EVIDENTIARY MATTER: EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence consists of claimant's timely response to the questionnaire,¹ claimant's request for reconsideration, and documents enclosed with claimant's request for reconsideration. This evidence 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.

¹ Due to a processing error, the Office of Administrative Hearings (OAH) did not immediately process claimant's response to the appellant questionnaire, and EAB did not receive the response until June 15, 2025.

FINDINGS OF FACT: (1) On March 17, 2025, the Department served notice of an administrative decision concluding that claimant had voluntarily quit work without good cause and therefore was disqualified from receiving benefits effective September 1, 2024 (decision # L0009704921). Claimant filed a timely request for hearing on decision # L0009704921 the same day.²

(2) On March 26, 2025, the Department mailed decision # L0009926331 to claimant's address on file with the Department. Decision # L0009926331 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 **April 15, 2025.**" Exhibit 1 at 2 (emphasis in original).

(3) On March 27, 2025, claimant sent two messages to the Department via Frances Online. The first message stated, in relevant part, "My appeal hearing [for decision # L0009704921] is set for April 9th... I will raise the topic [of claim backdating] with OAH during the meeting." EAB Exhibit 1 at 14. The second message, sent a few minutes later, stated, "Hello. I will be filing an appeal on the backdate decision." EAB Exhibit 1 at 13.

(4) On April 9, 2025, a hearing was held on decision # L0009704921.³ Claimant attempted to "raise the issue" of the backdating request during the hearing, but that issue was not addressed at that hearing. EAB Exhibit 1 at 2. Later that day, claimant contacted an OAH staffer via email, stating, in relevant part, "I had my appeals hearing this morning. However, I forgot to request my unemployment insurance claim be backdated to January 12, 2025, if I am successful. Can you please pass on this request to the administrative law judge that oversaw my case[?]" EAB Exhibit 1 at 11.

(5) On April 14, 2025, ALJ Parnell issued Order No. 25-UI-289416, reversing decision # L0009704921 by concluding that claimant was discharged, but not for misconduct, and was not disqualified from receiving benefits based on the work separation.⁴ On April 16, 2025, claimant received Order No. 25-UI-289416 and noticed that, despite his April 9, 2025, request, "the order did not contain a ruling on the backdate request." EAB Exhibit 1 at 1–2. On April 21, 2025, claimant filed a late request for hearing on decision # L0009926331 because he felt it was his "only recourse... when there was no mention of the backdate" issue in Order No. 25-UI-289416. EAB Exhibit 1 at 2.

CONCLUSIONS AND REASONS: Claimant's request for reconsideration is allowed. On reconsideration, EAB Decision 2025-EAB-0277 is reversed. Order No. 25-UI-290375 is reversed,

² EAB has taken notice of these facts, which are contained in Employment Department records. OAR 471-041-0090(1). Any party that objects to our taking notice of this information must submit such objection to this office in writing, setting forth the basis of the objection in writing, within ten days of our mailing this decision. OAR 471-041-0090(2). Unless such objection is received and sustained, the noticed facts will remain in the record.

³ EAB has taken notice of these facts, which are contained in Employment Department records. OAR 471-041-0090(1). Any party that objects to our taking notice of this information must submit such objection to this office in writing, setting forth the basis of the objection in writing, within ten days of our mailing this decision. OAR 471-041-0090(2). Unless such objection is received and sustained, the noticed facts will remain in the record.

⁴ EAB has taken notice of these facts, which are contained in Employment Department records. OAR 471-041-0090(1). Any party that objects to our taking notice of this information must submit such objection to this office in writing, setting forth the basis of the objection in writing, within ten days of our mailing this decision. OAR 471-041-0090(2). Unless such objection is received and sustained, the noticed facts will remain in the record.

claimant's late request for hearing is allowed, and claimant is entitled to a hearing on the merits of decision # L0009926331.

Reconsideration. ORS 657.290(3) authorizes the Employment Appeals Board to reconsider any previous decision of the Employment Appeals Board, including "the making of a new decision to the extent necessary and appropriate for the correction of previous error of fact or law." The request is subject to dismissal unless it includes a statement that a copy was provided to the other parties, and is filed on or before the 20th day after the decision sought to be reconsidered was mailed. OAR 471-041-0145(2) (May 13, 2019).

EAB dismissed claimant's late request for hearing without prejudice and subject to claimant filing a timely request for reconsideration within 20 days after EAB's dismissal decision was issued. Claimant filed a request for reconsideration consistent with the requirements set forth in OAR 471-041-0145. The request for reconsideration is, therefore, allowed.

Late Request for Hearing. 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.

OAR 471-040-0005(1) (July 15, 2018) states, "A Request for hearing may be filed on forms provided by the Employment Department or similar offices in other states. Use of the form is not required provided the party specifically requests a hearing or otherwise expresses a present intent to appeal and it can be determined what issue or decision is being appealed."

The request for hearing on decision # L0009926331 was due by April 15, 2025. Because claimant did not file his request for hearing until April 21, 2025, the request was late. Claimant's statements on his appellant questionnaire response and reconsideration request indicate his belief that he had filed a timely request for hearing on decision # L0009926331. For instance, claimant stated on the appellant questionnaire response that he "did file [his request for hearing] in time... [because he] "had a hearing scheduled for April 9th, 2025." EAB Exhibit 1 at 2. Similarly, claimant explained on his reconsideration request that he "had a hearing request scheduled already for April 9th, 2025... [and] informed the Employment Dept. that [claimant] would be appealing their denial of the backdate claim in that hearing." EAB Exhibit 1 at 4. These statements suggest that claimant believed that either his March 17, 2025, request for hearing on decision # L0009704921 (the work separation decision) and his email to OAH on April 9, 2025, constituted requests for hearing on decision # L0009926331 (the claim backdating decision).

Claimant's multiple, unsuccessful attempts to communicate to the Department and OAH that the backdating decision was at issue, coupled with his sincere belief that the matter could be addressed during his work separation hearing, suggests that claimant did not understand how the appeal process works when multiple administrative decisions have been issued and that he was unable to follow the directions provided to him with decision # L0009926331, despite his substantial efforts to comply by reaching out to the Department and OAH. This constitutes an excusable mistake, which is good cause.

Further, claimant filed his late request for hearing within a reasonable time once he became aware he was mistaken in his belief. On April 16, 2025, claimant received Order No. 25-UI-289416, which ruled on the work separation issue but did not address claimant's backdating request. Upon receipt of that order, claimant realized that he would need to file a separate request for hearing on decision # L0009926331. Thus, the factors or circumstances which prevented claimant's timely filing ceased to exist on that date. Claimant filed his late request for hearing on April 21, 2025, which was less than seven days after those factors or circumstances ceased to exist, and therefore did so within a reasonable time. As such, claimant's late request for hearing on decision # L0009926331 is allowed, and claimant is entitled to a hearing on the merits of that decision.

DECISION: Claimant's request for reconsideration is allowed. On reconsideration, EAB Decision 2025-EAB-0277 is reversed, Order No. 25-UI-290375 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 24, 2025

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 25-UI-290375 or return this matter to EAB. Only a timely application for review of the order mailed to the parties after the remand hearing will return this matter 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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