

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0280

Reversed & Remanded

PROCEDURAL HISTORY AND FINDINGS OF FACT: On February 20, 2025, the Oregon Employment Department (the Department) served notice of a Wage and Potential Benefit Report (WPBR) concluding that claimant had a monetarily valid claim for unemployment insurance benefits, with a weekly benefit amount of \$836 and a maximum benefit amount of \$21,736 (decision # L0009358840). On March 3, 2025, decision # L0009358840 became final without claimant having filed a request for hearing. On March 26, 2025, claimant filed a late request for hearing on decision # L0009358840. ALJ Kangas considered claimant's request, and on April 22, 2025, issued Order No. 25-UI-290185, 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 6, 2025. On May 7, 2025, claimant filed a late response to the appellant questionnaire and a timely application for review of Order No. 25-UI-290185 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 response to the appellant questionnaire and an attached message log from Frances Online, 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.

CONCLUSIONS AND REASONS: Order No. 25-UI-290185 is set aside and this matter remanded for a hearing on whether claimant's late request for hearing on decision # L0009358840 should be allowed and, if so, 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. Under OAR 471-040-0010(1)(b)(A), “good cause” does not include failure to receive a document due to not notifying the Department or OAH of an updated address while the person is claiming benefits or if the person knows, or reasonably should know, of a pending appeal.

The request for hearing on decision # L0009358840 was due by March 3, 2025. Because claimant did not file their request for hearing until March 26, 2025, the request was late.

As a preliminary matter, it is not clear from the record whether claimant actually intended to appeal decision # L0009358840. Decision # L0009358840 concluded that claimant was entitled to a weekly benefit amount of \$836, which is the highest weekly benefit amount possible for the 2024-2025 fiscal year.¹ As such, to the extent that claimant believes they are entitled to a higher weekly benefit amount, it is not clear that a hearing on the merits of decision # L0009358840 would entitle them to any additional relief.

On their request for hearing, claimant’s response to the question “What is your reason for appealing?” stated only, “Tax info[.]” Exhibit 2 at 4. Additionally, on their response to the appellant questionnaire, claimant explained that the Department requested that claimant provide additional information, and that they were prompted to file their request for hearing “immediately... after submitting requested info for multiple appeals.” EAB Exhibit 1 at 1–2. This suggests that claimant might have used the request for hearing process merely to submit requested documentation, rather than to appeal decision # L0009358840. Thus, on remand, the ALJ should first ask claimant if they disagree with decision # L0009358840 and filed their request for hearing for that reason. If claimant indicates that they do *not* disagree with decision # L0009358840, the ALJ may dismiss claimant’s request for hearing for failure to present a justiciable controversy.² Otherwise, the inquiry should turn to whether claimant’s late request for hearing should be allowed.

To that end, claimant stated on their appellant questionnaire response that they “did not receive [the] hearing decision[.]” EAB Exhibit 1 at 1. It is not clear if claimant meant, by this response, that they did not receive a copy of decision # L0009358840. To the extent that claimant did not receive a copy of decision # L0009358840, claimant may have had good cause for failing to file a timely request for hearing. However, further information is necessary, in that case, to determine whether claimant’s late request for hearing should be allowed. The ALJ should therefore inquire as to when, if at all, claimant received or otherwise became aware of decision # L0009358840, whether claimant was experiencing issues with receiving mail at the time of its issuance, and whether claimant was claiming benefits or had reason to know of a pending appeal at the time of its issuance. Additionally, the ALJ should inquire as to when the factors which prevented claimant from filing a timely request for hearing ceased, and what prompted claimant to file their request for hearing on March 26, 2025, rather than some earlier date.

Order No. 25-UI-290185 therefore is reversed, and this matter remanded for a hearing on whether claimant’s late request for hearing should be allowed and, if so, the merits of decision # L0009358840.

¹ See <https://www.oregon.gov/employ/NewsAndMedia/Documents/2024-06-13-Rates-Update-Press-Release.pdf>

² In the alternative, if claimant withdraws their request for hearing, the ALJ may dismiss the request for hearing for that reason.

DECISION: Order No. 25-UI-290185 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 10, 2025

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 25-UI-290185 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 باتباع 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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