

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0353

Affirmed
Late Requests for Hearing Dismissed

PROCEDURAL HISTORY: On May 19, 2022, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged for misconduct and therefore was disqualified from receiving unemployment insurance benefits effective July 4, 2021 (decision # 112014). On June 8, 2022, decision # 112014 became final without claimant having filed a request for hearing. On July 25, 2022, the Department served notice of an administrative decision, based in part on decision # 112014, concluding that claimant received benefits to which they were not entitled and assessing an overpayment of \$7,501 in regular unemployment insurance (regular UI) benefits and \$2,700 in Federal Pandemic Unemployment Compensation (FPUC) benefits that claimant was required to repay to the Department (decision # 102734). On August 15, 2022, decision # 102734 became final without claimant having filed a request for hearing. On April 21, 2025, claimant filed late requests for hearing on decisions # 112014 and 102734.

ALJ Kangas considered claimant's requests. On April 30, 2025, ALJ Kangas issued Order No. 25-UI-290977, dismissing claimant's request for hearing on decision # 102734 as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by May 14, 2025. On May 6, 2025, ALJ Kangas issued Order No. 25-UI-291442, dismissing claimant's request for hearing on decision # 112014 as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by May 20, 2025. Also on May 6, 2025, claimant filed a timely response to the appellant questionnaire.¹ ALJ Kangas considered claimant's response, and on June 2, 2025, issued Orders No. 25-UI-293732 and 25-UI-293731, canceling Orders No. 25-UI-291442 and 25-UI-290977, respectively, and re-dismissing claimant's requests for hearing on decisions # 112014 and 102734, respectively, as late without good cause. On June 9, 2025, claimant filed applications for review of Orders No. 25-UI-293732 and 25-UI-293731 with the Employment Appeals Board (EAB).

¹ Claimant only submitted a response to the appellant questionnaire mailed with Order No. 25-UI-290977 on April 30, 2025.

EAB combined its review of Orders No. 25-UI-293732 and 25-UI-293731 under OAR 471-041-0095 (October 29, 2006). For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2025-EAB-0353 and 2025-EAB-0354).

WRITTEN ARGUMENT: Claimant did not state that they provided a copy of their argument to the employer as required by OAR 471-041-0080(2)(a) (May 13, 2019). The argument also contained information that was not part of the record while the matter was pending at the Office of Administrative Hearings (OAH), and did not show that factors or circumstances beyond claimant's reasonable control prevented them from offering the information at that time as required by OAR 471-041-0090 (May 13, 2019). EAB considered only the information received into evidence while the matter was pending at OAH. *See* ORS 657.275(2).

FINDINGS OF FACT: (1) On May 19, 2022, the Department mailed decision # 112014 to claimant's address on file with the Department. Decision # 112014 stated, "You have the right to appeal this decision if you do not believe it is correct. Your request for appeal must be received no later than June 8, 2022." Order No. 25-UI-293732, Exhibit 1 at 2.

(2) On July 25, 2022, the Department mailed decision # 102734 to claimant's address on file with the Department. Decision # 102734 stated, "If you disagree with the amount of the overpayment, you have the right to appeal this decision. Any appeal from this decision must be filed on or before August 15, 2022, to be timely." Order No. 25-UI-293731, Exhibit 1 at 2.

(3) On April 21, 2025, claimant filed late requests for hearing on decisions # 112014 and 102734.

CONCLUSIONS AND REASONS: Claimant's late requests for hearing are dismissed.

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 requests for hearing on decisions # 112014 and 102734 were due by June 8, 2022, and August 15, 2022, respectively. Because claimant did not file their requests for hearing on either decision until April 21, 2025, the requests were late.

On their response to the appellant questionnaire, claimant stated that they received "the administrative decision" on July 25, 2022. Order No. 25-UI-293732, Exhibit 3 at 5. Claimant did not indicate which administrative decision they were referring to in this instance, but it can be presumed, based on the fact that the questionnaire was issued with the order denying the hearing request on decision # 102734, that claimant was referring here to the receipt of that decision. Claimant did not indicate elsewhere when

they received a copy of decision # 112014. As such, it can be presumed that claimant received it in the ordinary course of mail.²

Regarding the reason for failing to file a timely request for hearing, claimant stated, “I didn’t understand that I could.” Order No. 25-UI-293732, Exhibit 3 at 4. Given the relatively short period of time in which both administrative decisions were issued, and the fact that decision # 112014 was issued prior to decision # 102734, it can be reasonably presumed that claimant also did not understand that they could appeal decision # 112014 at the time they received it, and failed to file a timely request for hearing on that decision for the same reason. Claimant also stated that they “called and spoke w/ someone and she explained things to [claimant].” Order No. 25-UI-293732, Exhibit 3 at 4. This suggests that claimant finally filed their requests for hearing after speaking to a Department representative who explained the appeals process to them. Claimant did not offer any additional information to explain why they failed to file timely requests for hearing on either decision. As such, claimant has not shown that they were prevented from filing timely requests for hearing due to factors beyond their reasonable control.

Further, although claimant’s lack of understanding that they could appeal the administrative decisions was likely the result of a mistake on their part, it was not an “excusable mistake” within the meaning of the administrative rules because it did not, for example, raise a due process issue, and was not the result of inadequate notice, reasonable reliance on another, or the inability to follow directions despite substantial efforts to comply.

Therefore, claimant’s late requests for hearing on decisions # 112014 and 102734 must be dismissed under ORS 657.875 and OAR 471-040-0010.

DECISION: Orders No. 25-UI-293732 and 25-UI-293731 are affirmed.

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

DATE of Service: June 25, 2025

NOTE: You may appeal this decision by filing a Petition for Judicial Review with the Oregon Court of Appeals **within 30 days of the date of service stated above**. See ORS 657.282. For forms and information, visit <https://www.courts.oregon.gov/courts/appellate/forms/Pages/appeal.aspx> and choose the appropriate form under “File a Petition for Judicial Review.” You may also contact the Court of Appeals by telephone at (503) 986-5555, by fax at (503) 986-5560, or by mail at 1163 State Street, Salem, Oregon 97301.

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² There is a presumption that a letter duly directed and mailed was received in the regular course of the mail. See OAR 137-003-0520(10) (January 31, 2012) (“Documents sent through the U.S. Postal Service by regular mail are presumed to have been received by the addressee, subject to evidence to the contrary.”).



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.

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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