

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0360

Late Application for Review Dismissed

PROCEDURAL HISTORY: On July 25, 2022, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits, and assessing a \$8,489 overpayment that claimant was required to repay, a \$2,546.70 monetary penalty, and a 47-week penalty disqualification from future benefits (decision # 194263). Claimant filed a timely request for hearing. On February 28, 2023, ALJ Kaneshiro conducted a hearing, and on March 1, 2023, issued Order No. 23-UI-217634, affirming decision # 194263. On March 21, 2023, Order No. 23-UI-217634 became final without claimant having filed an application for review with the Employment Appeals Board (EAB). On June 12, 2025, claimant filed a late application for review with EAB.

WRITTEN ARGUMENT: Claimant submitted written arguments on June 19 and 21, 2025. EAB did not consider claimant's June 19, 2025, argument because she did not state that she provided a copy of her June 19, 2025, argument to the employer as required by OAR 471-041-0080(2)(a) (May 13, 2019). EAB did not consider claimant's June 21, 2025, argument because it was not relevant and material to EAB's determination of whether to allow claimant's late application for review of Order No. 23-UI-217634. ORS 657.275(2) and OAR 471-041-0090(1)(b)(A).

EVIDENTIARY MATTER: EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence is the written statement filed with claimant's application for review, 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, 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 exhibit will remain in the record.

FINDING OF FACT: (1) Order No. 23-UI-217634, mailed to claimant on March 1, 2023, stated, "You may appeal this decision by filing the attached form Application for Review with the Employment Appeals Board within 20 days of the date that this decision is mailed." Order No. 23-UI-217634 at 8. The order further stated, "If you have questions, please refer to the enclosed publication 'Rights of Review of a Hearing Decision' (UI Pub 15). If you did not receive a copy of 'Rights of Review of a Hearing Decision' with this decision, call the Office of Administrative Hearings at 1-800-311-3394 to

request a copy.” Order No. 23-UI-217634 at 8. Order No. 23-UI-217634 also stated on its Certificate of Mailing, “Any appeal from this Order must be filed on or before March 21, 2023, to be timely.”

(2) On March 21, 2023, Order No. 23-UI-217634 became final without claimant having filed an application for review.

(3) On June 12, 2025, claimant filed a late application for review of Order No. 23-UI-217634. In a written statement filed with the application for review, claimant stated that a “[m]isunderstanding of how to file appeal” caused her to file the application for review late. EAB Exhibit 1 at 1.

CONCLUSIONS AND REASONS: Claimant’s late application for review of Order No. 23-UI-217634 is dismissed.

An application for review is timely if it is filed within 20 days of the date that the Office of Administrative Hearings (OAH) mailed the order for which review is sought. ORS 657.270(6); OAR 471-041-0070(1) (May 13, 2019). The 20-day filing period may be extended a “reasonable time” upon a showing of “good cause.” ORS 657.875; OAR 471-041-0070(2). “Good cause” means that factors or circumstances beyond the applicant’s reasonable control prevented timely filing. OAR 471-041-0070(2)(a). A “reasonable time” is seven days after the circumstances that prevented the timely filing ended. OAR 471-041-0070(2)(b). A late application for review will be dismissed unless it includes a written statement describing the circumstances that prevented a timely filing. OAR 471-041-0070(3).

The application for review of Order No. 23-UI-217634 was due by March 21, 2023. Because claimant did not file her application for review until June 12, 2025, the application for review was late.

Claimant provided a written statement with the application for review. In it, claimant stated that a “[m]isunderstanding of how to file appeal” caused her to file the application for review late. EAB Exhibit 1 at 1. Claimant did not establish that any misunderstanding relating to how to file an application for review was a factor or circumstance beyond her reasonable control that prevented a timely filing. Claimant did not explain anything about what led her to misunderstand how to appeal, or otherwise describe any other circumstances that caused her to file the application for review late.

On its Certificate of Mailing and on page 8 of the order under the heading “Appeal Rights,” Order No. 23-UI-217634 stated that the deadline to timely file an appeal was March 21, 2023. The order referred claimant to an enclosed publication and provided a phone number to call the Office of Administrative Hearings (OAH) if she had any questions regarding how to appeal. If claimant did not understand how to appeal, it was within her reasonable control to follow instructions in the enclosed publication or call OAH at the phone number provided for assistance. Claimant failed to prove that it was beyond her reasonable control to make note of the March 21, 2023, deadline and, if she wished to file an application for review, do so by that date.

Accordingly, claimant did not show good cause for the late application for review, and her late application for review is dismissed.

DECISION: The application for review filed June 12, 2025 is dismissed. Order No. 23-UI-217634 remains undisturbed.

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

DATE of Service: July 1, 2025

NOTE: Visit www.oregonlawhelp.org for information about finding free or low-cost legal help in Oregon.

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.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveygizmo.com/s3/5552642/EAB-Customer-Service-Survey>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.



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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Website: www.Oregon.gov/employ/pages/employment-appeals-board.aspx

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