

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0387

Reversed
Late Request for Hearing Allowed
Merits Hearing Required

Orden Revocada
La Solicitud Tardía Para una Audiencia Es Permitida
Se Requiere una Audiencia Sobre los Méritos del Caso

Este documento incluye información importante que no ha sido traducida al español. Llame a la Junta de Apelaciones de Empleo (EAB) al 503-378-2077 para obtener servicios de traducción gratuitos.¹

PROCEDURAL HISTORY: On March 14, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged by the employer for misconduct and disqualified from receiving unemployment insurance benefits effective February 9, 2025 (decision # L0009707297).² On April 3, 2025, decision # L0009707297 became final without claimant having filed a request for hearing. On April 25, 2025, claimant filed a late request for hearing on decision # L0009707297. ALJ Kangas considered claimant's request, and on May 27, 2025 issued Order No. 25-UI-293246, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by June 10, 2025. On June 6, 2025, claimant filed a timely response to the appellant questionnaire. On June 23, 2025, ALJ Adamson conducted a hearing, and on June 24, 2025 issued Order No. 25-UI-295654, re-dismissing claimant's late request for hearing and leaving decision # L0009707297 undisturbed. On June 27, 2025, claimant filed an application for review of Order No. 25-UI-295654 with the Employment Appeals Board (EAB).

¹ This document includes important information that has not been translated into Spanish. Please call the Employment Appeals Board (EAB) at 503-378-2077 to obtain free translation services.

² Decision # L0009707297 stated that claimant was denied benefits from February 9, 2025 to February 14, 2026. However, decision # L0009707297 should have stated that claimant was disqualified from receiving benefits beginning February 9, 2025 and until she earned four times her weekly benefit amount. See ORS 657.176.

HISTORIA DEL PROCEDIMIENTO: *El 14 de marzo de 2025, el Departamento de Empleo de Oregón (el Departamento) notificó una decisión administrativa que concluía que la reclamante fue despedida por mala conducta y, por lo tanto, fue descalificada para recibir beneficios del seguro de desempleo a partir del 9 de febrero de 2025 (decisión No. L0009707297).³ El 3 de abril de 2025, la decisión No. L0009707297 se volvió definitiva sin que la reclamante hubiera solicitado una audiencia sobre la decisión. El 25 de abril de 2025, la reclamante presentó una solicitud tardía para una audiencia. La jueza administrativa Kangas consideró la solicitud, y el 27 de mayo de 2025, emitió la Orden No. 25-UI-295654, desestimando la solicitud de audiencia por ser tardía, sujeta al derecho de la reclamante a renovar la solicitud respondiendo a un cuestionario de apelación antes del 10 de junio de 2025.*

El 6 de junio de 2025, la reclamante presentó una respuesta oportuna al cuestionario. El 23 de junio de 2025, el juez administrativo Adamson llevó a cabo una audiencia. El 24 de junio de 2025, emitió la Orden No. 25-UI-295654, desestimando nuevamente la solicitud tardía de audiencia de la reclamante y dejando la decisión No. L0009707297 sin cambios. El 27 de junio de 2025, la reclamante presentó una solicitud de revisión de la Orden No. 25-UI-295654 ante la Junta de Apelaciones de Empleo (EAB).

FINDINGS OF FACT: (1) On March 14, 2025, the Department mailed decision # L0009707297 to claimant's address on file with the Department. Decision # L0009707297 was written in English. Claimant's preferred language is Spanish.⁴

(2) Decision # L0009707297 stated that the employer fired claimant for misconduct, and denied benefits beginning February 9, 2025. Decision # L0009707297 further stated, in the following order, that:

"We made this decision on March 14, 2025, and it becomes final unless we receive a request for hearing by April 3, 2025." DR Exhibit 1 at 1.

"What should I do?"

Important! The decision in this notice affects your benefits. If you do not understand this decision, call 877-345-3484 immediately." DR Exhibit 1 at 2 (emphasis in original).

"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 3, 2025**." DR Exhibit 1 at 2 (emphasis in original).

"You may request a hearing in one of the following ways:

- Use Frances Online at frances.oregon.gov

³ La decisión # L0009707297 dijo que a la reclamante se le negó los beneficios desde el 9 de febrero de 2025 hasta el 14 de febrero de 2026. Pero, en realidad, la decisión # L0009707297 debería haber dicho que la reclamante estaba descalificada para recibir beneficios desde el 9 de febrero de 2025 hasta que ganara cuatro veces su pago semanal de beneficios. Consulta ORS 657.176.

⁴ EAB has taken notice of this fact, which is contained in Employment Department records. OAR 471-041-0090(1) (May 13, 2019). 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.

- Call us at 503-947-3149 or 877-345-345-3484
- In person at an Oregon Employment Department WorkSource Oregon office. Locations can be found at worksourcoregon.org/centers
- Mail your request to:

Hearings
875 Union St NE
Salem, OR 97301”

DR Exhibit 1 at 2.

“Have questions?”

If you have any questions regarding this message, please call 877-345-3484.” DR Exhibit 1 at 3.

(3) On March 31, 2025, claimant received decision # L0009707297. While claimant understood that the decision denied her benefits, claimant did not understand what the decision was “asking [her] to do,” as there were “some words [she] didn’t really understand.” Audio Record at 12:32, 12:58. Claimant did not contact the Department for help at that time because she did not feel as if they would help her, and “felt like giving up on it.” Audio Record at 17:20.

(4) Later, claimant spoke to her “DHS worker,” who encouraged claimant not to give up on the matter. Audio Record at 17:28. On April 25, 2025, claimant, accompanied by her Oregon Department of Human Services (DHS) worker, visited a WorkSource Oregon office. With the assistance of a representative there, claimant filed her request for hearing that day.

CONCLUSIONS AND REASONS: Claimant’s late request for hearing is allowed. Order No. 25-UI-295654 is set aside and this matter remanded for a hearing on the merits of decision # L0009707297.

CONCLUSIONES Y RAZONES: *Se acepta la solicitud tardía de la reclamante para una audiencia. La Orden No. 25-UI-295654 se anula y este asunto se remite para una audiencia sobre los méritos de la decisión # L0009707297.*

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(1) (February 10, 2012) provides that “good cause” includes an excusable mistake or factors beyond a person’s reasonable control, and defines “reasonable time” as seven days after those factors ended. OAR 471-040-0010(1)(b)(B) clarifies that “good cause” does not include “[n]ot understanding the implications of a decision or notice when it is received.”

The request for hearing on decision # L0009707297 was due by April 3, 2025. Because claimant did not file her request for hearing until April 25, 2025, the request was late. The order under review denied claimant’s late request for hearing, explaining that a finding of good cause was barred under OAR 471-040-0010(1)(b)(B) because claimant “testified she did not understand the decision.” Order No. 25-UI-295654 at 4. However, the record does not show that OAR 471-040-0010(1)(b)(B) applies, or that claimant’s late request for hearing was otherwise without good cause under OAR 471-040-0010(1).

OAR 471-040-0010(1)(b)(B) bars a finding of good cause when a late filing is the result of not understanding the *implications* of a decision. Not understanding the implications of a decision differs from not understanding a right to appeal or how to appeal. Claimant's testimony showed that although she understood the decision denied benefits, she did not understand all of decision # L0009707297, including what the decision was "asking her to do." Audio Record at 12:58, 12:32. The record therefore fails to show that claimant's late request for hearing was without good cause under OAR 471-040-0010(1)(b)(B).

Claimant failed to file a timely request for hearing because she did not understand portions of decision # L0009707297. At hearing, claimant testified that she did not have a language barrier or reading comprehension issue that prevented her from understanding decision # L0009707297. Audio Record at 12:59. However, claimant also testified that there were "some words [she] didn't really understand" and that she did not understand what the decision was "asking [her] to do." Audio Record at 12:58, 12:32. Given that decision # L0009707297 was written in English when claimant's preferred language on record with the Department is Spanish, and claimant required help from both an Oregon Department of Human Services (DHS) worker and WorkSource Oregon to eventually file her late request for hearing, more likely than not claimant did not understand her right to appeal or how to appeal because of a language barrier, which was a factor or circumstance beyond her reasonable control. As such, claimant had good cause for not filing a timely request for hearing.

Further, claimant filed her late request for hearing within a reasonable time of when the factors or circumstances preventing her timely filing ceased. Those factors or circumstances ceased when she obtained help from a WorkSource Oregon office, as well as her DHS worker, to understand the administrative decision. As she filed her late request for hearing the same day, she did so within seven days, and therefore within a reasonable time.

For these reasons, claimant's late request for hearing is allowed, and claimant is entitled to a hearing on the merits of decision # L0009707297, which are whether claimant is disqualified from receiving unemployment insurance benefits based on her work separation from Better Choice LLC.

Por estas razones, se acepta la solicitud tardía de la reclamante para una audiencia, y la reclamante tiene derecho a una audiencia sobre el fondo de la decisión # L0009707297, que se refiere a si la demandante está descalificada para recibir beneficios de seguro de desempleo basándose en su separación laboral de Better Choice LLC.

DECISION: Order No. 25-UI-295654 is set aside, and this matter remanded for further proceedings consistent with this order.

DECISIÓN: *La Orden No. 25-UI-295654 se anula, y este asunto se remite para nuevos procedimientos de acuerdo con esta orden.*

S. Serres and A. Steger-Bentz;
D. Hettle, dissenting.

DATE of Service: August 7, 2025

FECHA de Servicio: 7 de agosto de 2025

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 25-UI-295654 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.

NOTA: La falta de cualquier parte de presentarse a la nueva audiencia no reinstalará la Orden de la Audiencia No. 25-UI-295654, ni devolverá esta orden a la EAB. Solamente una aplicación oportuna para revisión de la orden subsiguiente de la nueva audiencia volverá este caso a la EAB.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveymizmo.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.

Por favor, ayúdenos a mejorar nuestro servicio completando una encuesta de servicio al cliente. Para completar la encuesta en línea, vaya a <https://www.surveymizmo.com/s3/5552642/EAB-Customer-Service-Survey>. Si no puede completar la encuesta en línea y desea obtener una copia impresa de la encuesta, comuníquese con nuestra oficina.



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

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