

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0396

Reversed
Late Requests for Hearing Allowed
Merits Hearings Required

PROCEDURAL HISTORY: On April 25, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant did not actively seek work from February 18 through 24, 2024 (week 08-24) and was ineligible for benefits for that week (decision # L0003769365). Also on April 25, 2024, the Department served notice of an administrative decision concluding that claimant did not actively seek work from February 25 through March 2, 2024 (week 09-24) and was ineligible for benefits for that week (decision # L0003798425). Also on April 25, 2024, the Department served notice of an administrative decision concluding that claimant did not actively seek work from March 3 through 9, 2024 (week 10-24) and was ineligible for benefits for that week (decision # L0003771175). On May 15, 2024, decisions # L0003769365, L0003798425, and L0003771175 became final without claimant having filed a request for hearing.

On May 17, 2024, claimant filed late requests for hearing on decisions # L0003769365, L0003798425, and L0003771175. ALJ Kangas considered the requests, and on December 11, 2024, issued Orders No. 24-UI-276292, 24-UI-276294, and 24-UI-276291, dismissing the requests as late, subject to claimant's right to renew the requests by responding to appellant questionnaires by December 25, 2024. On December 20, 2024, claimant filed timely appellant questionnaire responses. On January 30, 2025, the Office of Administrative Hearings (OAH) mailed letters to claimant stating that Orders No. 24-UI-276292, 24-UI-276294, and 24-UI-276291 were vacated and that hearings would be scheduled to determine whether to allow claimant's late requests for hearing and, if so, the merits of decisions # L0003769365, L0003798425, and L0003771175.

On June 13, 2025, ALJ Parnell conducted a hearing and issued Orders No. 25-UI-294980, 25-UI-294982, and 25-UI-294978, dismissing claimant's requests for hearing on decisions # L0003769365, L0003798425, and L0003771175 as late without good cause and leaving those decisions undisturbed. On June 30, 2025, claimant filed applications for review of Orders No. 25-UI-294980, 25-UI-294982, and 25-UI-294978 with the Employment Appeals Board (EAB). EAB combined its review of Orders No. 25-UI-294980, 25-UI-294982, and 25-UI-294978 under OAR 471-041-0095 (October 29, 2006).

For case-tracking purposes, this decision is being issued in triplicate (EAB Decisions 2025-EAB-0397, 2025-EAB-0398, and 2025-EAB-0396).

FINDINGS OF FACT: (1) Decision # L0003769365, mailed to claimant’s address on file with the Department on April 25, 2024, 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 **May 15, 2024.**” Order No. 25-UI-294980 DR Exhibit 1 at 1 (emphasis in original).¹

(2) Decision # L0003798425, mailed to claimant’s address on file with the Department on April 25, 2024, 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 **May 15, 2024.**” Order No. 25-UI-294982 DR Exhibit 1 at 1 (emphasis in original).

(3) Decision # L0003771175, mailed to claimant’s address on file with the Department on April 25, 2024, 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 **May 15, 2024.**” Order No. 25-UI-294978 DR Exhibit 1 at 1 (emphasis in original).

(4) In late April 2024, claimant received the three administrative decisions and disagreed with their conclusions. On or before May 15, 2024, claimant attempted to file a request for hearing on each decision using Frances Online, but was unable to do so. Claimant also attempted “multiple times” to file the requests for hearing by telephone, but was unsuccessful in reaching the Department after being on hold for two to four hours per call. Order No. 25-UI-294982 DR Exhibit 2 at 5.

(5) On May 17, 2024, claimant spoke with a Department representative by telephone and filed late requests for hearing on the administrative decisions.

CONCLUSIONS AND REASONS: Claimant’s late requests for hearing are allowed, and hearings on the merits of decisions # L0003769365, L0003798425, and L0003771175 are required.

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 # L0003769365, L0003798425, and L0003771175 were each due by May 15, 2024. Claimant’s requests for hearing were filed on May 17, 2024, and were therefore late. The orders under review concluded that claimant failed to recall at hearing his specific efforts to file timely requests for hearing, and therefore failed to show by a preponderance of the evidence that good cause existed to extend the filing deadline. Order No. 25-UI-294980 at 3-4; Order No. 25-UI-294982 at 3-4; Order No. 25-UI-294978 at 3-4. The record does not support this conclusion.

¹ The exhibit files in each matter contain inconsistent or conflicting numbering. The citations in this decision refer to the file where Exhibit 1 consists of claimant’s three-page appellant questionnaire response; DR Exhibit 1 consists of the two-page administrative decision; and DR Exhibit 2 consists of the five-page late request for hearing.

Claimant wrote in his appellant questionnaire response that he “believe[d]” he received decisions # L0003769365, L0003798425, and L0003771175 in “late [April] of 2024,” and that he filed timely requests for hearing by telephone on “May 13 or 14, 2024.” Order No. 25-UI-294982 Exhibit 1 at 2. At hearing, claimant suggested that he had difficulty recalling the timeline of events related to his attempts to request a hearing on the three administrative decisions. Audio Record at 14:39. Claimant’s testimony suggested that on or before May 15, 2024, he may have attempted to file requests for hearing by mail, Frances Online, telephone, and in-person at a WorkSource office, though he more specifically recalled that his attempts to use Frances Online and reach the Department by telephone prior to the filing deadline occurred and were unsuccessful. Audio Record at 8:24; 10:37; 14:00; 14:40.

The record is unclear as to what specific difficulties claimant encountered with Frances Online or the dates on which they occurred, but suggests that claimant was unable to reach a representative by telephone on multiple occasions just prior to May 15, 2024 due to busy signals, hours-long hold times, and dropped calls. The Department representative who spoke with claimant on May 17, 2024 and assisted him in filing his late requests for hearing noted that claimant “had several barriers in reaching OED on the # provided on the letter to file for hearings on time; the line was busy multiple times, when getting thru the phone was on hold before calls dropping at 2/4 hours without being answered.” Order No. 25-UI-294982 DR Exhibit 2 at 5. Claimant gave varying accounts at hearing regarding his calls to the Department and attempts to appeal through other means, but as this note was made two days after the filing deadline, it can reasonably be inferred that it more accurately reflects claimant’s recollection of his attempts to timely file a request for hearing than his hearing testimony more than a year later, and the facts have been found accordingly.

Therefore, the record shows that claimant made multiple attempts by telephone and Frances Online to file timely requests for hearing but was prevented from doing so by factors beyond his reasonable control, and good cause exists to extend the filing deadline. Furthermore, because the late requests for hearing were filed within two days of the timely filing deadline, they were filed within a “reasonable time.” Accordingly, claimant’s late requests for hearing on decisions # L0003769365, L0003798425, and L0003771175 are allowed, and claimant is entitled to hearings on the merits of those decisions.

DECISION: Orders No. 25-UI-294980, 25-UI-294982, and 25-UI-294978 are set aside, and the matters remanded for further proceedings consistent with this order.

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

DATE of Service: August 6, 2025

NOTE: The failure of any party to appear at the hearings on remand will not reinstate Orders No. 25-UI-294980, 25-UI-294982, and 25-UI-294978 or return these matters to EAB. Only a timely application for review of the order mailed to the parties after the remand hearing will return that 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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