

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0405

Order No. 25-UI-294999 - Late Request to Reopen Denied
Order No. 24-UI-270187 - Late Application for Review Dismissed

PROCEDURAL HISTORY: On May 14, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer with good cause and was not disqualified from receiving benefits based on the quit (decision # L0004015934). The employer filed a timely request for hearing. On September 30, 2024, the Office of Administrative Hearings (OAH) served notice of a hearing scheduled for October 18, 2024. On October 18, 2024, ALJ Murray conducted a hearing at which claimant failed to appear, and on October 21, 2024 issued Order No. 24-UI-270187, reversing decision # L0004015934 by concluding that claimant quit work without good cause and was disqualified from receiving benefits effective April 2, 2024. On November 12, 2024, Order No. 24-UI-270187 became final without claimant having filed an application for review or request to reopen with the Employment Appeals Board (EAB).

On June 2, 2025, claimant filed a late application for review of Order No. 24-UI-270187 with EAB. The application for review included a written statement expressing that claimant was requesting to reopen the October 18, 2024 hearing, and so was treated as a late request to reopen under OAR 471-041-0060(4) and (5) (May 13, 2019), and OAR 471-040-0040(6) (February 10, 2012). ALJ Kangas considered claimant's reopen request, and on June 16, 2025 issued Order No. 25-UI-294999, denying the request and leaving Order No. 24-UI-270187 undisturbed. On July 6, 2025, claimant filed an application for review of Order No. 25-UI-294999 with EAB. Also, by operation of OAR 471-040-0040(6), OAH returned claimant's late application for review of Order No. 24-UI-270187 to EAB. This matter comes before EAB based upon claimant's application for review of Order No. 25-UI-294999 and late application for review of Order No. 24-UI-270187.

Under OAR 471-041-0095 (October 29, 2006), EAB combined its review of Order No. 25-UI-294999 and the late application for review of Order No. 24-UI-270187 that was returned to EAB from OAH. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2025-EAB-0405 and 2025-EAB-0413).

WRITTEN ARGUMENT: Claimant submitted a written argument with their July 6, 2025 application for review of Order No. 25-UI-294999. 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 new information about why they failed to appear at the hearing or why their request to reopen the hearing was late, but did not show that factors or circumstances beyond their reasonable control prevented them from offering the information into the record while the matter was pending before OAH with their request to reopen, as required by OAR 471-040-0040(3). EAB did not consider claimant's July 6, 2025 argument. *See* ORS 657.275(2).

FINDINGS OF FACT: (1) Prior to February 28, 2025, claimant lived at an address in Medford, Oregon.¹

(2) On May 14, 2024, the Department issued decision # L0004015934, which allowed claimant benefits in connection with their work separation from Leslie's Poolmart, Inc. (the employer). The employer filed a timely request for hearing, and on September 30, 2024, OAH mailed notice of a hearing on decision # L0004015934 to claimant at their address in Medford, Oregon. Exhibit 3 at 3. The hearing notice stated on its caption and Certificate of Mailing that the matter involved claimant and Leslie's Poolmart, Inc. Exhibit 3 at 1, 3. The notice scheduled a hearing for October 18, 2024.

(3) The Department issued a separate administrative decision in connection with claimant's work separation from a different employer, Lithia Chrysler Jeep Dodge. That administrative decision denied claimant benefits, and on September 17, 2024, claimant filed a late request for hearing on that administrative decision. On October 2, 2024, OAH issued an order mailed to claimant's address in Medford that dismissed claimant's hearing request with a right to renew by filing an appellant questionnaire. On October 15, 2024, claimant filed a timely appellant questionnaire response.²

(4) On October 18, 2024, a hearing was held on decision # L0004015934. Claimant experienced "confusion and mix up in the[ir] 2 different UI cases." Exhibit 5 at 1. The notice scheduling the October 18, 2024 hearing on decision # L0004015934 was mailed to claimant's address in Medford, just as was the October 2, 2024 OAH order involving the appeal of the separate work separation matter involving Lithia Chrysler Jeep Dodge. While claimant had been responsive in the separate work separation matter, claimant failed to appear at the October 18, 2024 hearing. The employer appeared and the ALJ conducted a hearing.

(5) On October 21, 2024, ALJ Murray issued Order No. 24-UI-270187, reversing decision # L0004015934 by concluding that claimant quit work without good cause and was disqualified from

¹ 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.

² EAB has taken notice of the facts contained in this paragraph, which are contained in Employment Department records. OAR 471-041-0090(1) 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 facts will remain in the record.

receiving benefits effective April 2, 2024. Order No. 24-UI-270187 was mailed to claimant's address in Medford.

(6) Order No. 24-UI-270187 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. 24-UI-270187 at 3. Order No. 24-UI-270187 stated on its Certificate of Mailing, "Any appeal from this Order must be filed on or before November 12, 2024 to be timely." The order also stated:

If you did not appear at the hearing, you may request to reopen the hearing. These requests are governed by OAR 471-040-0040 and 471-040-0041 and should be filed with the Office of Administrative Hearings. Your request to reopen the hearing must: 1) be in writing; 2) show good cause for failing to appear at the hearing; "Good cause" exists when an action, delay, or failure to act arises from an excusable mistake or from factors beyond an applicant's reasonable control; and 3) either be filed within 20 days of when the order from the hearing you missed was mailed, or else show good cause to extend the period to request reopening of your case, and show that you filed your reopen request within seven days of when those factors or circumstances ceased to exist.

Order No. 24-UI-270187 at 3.

(7) On November 12, 2024, Order No. 24-UI-270187 became final without claimant having filed an application for review or request to reopen.

(8) On February 28, 2025, claimant moved from Medford to Depoe Bay, Oregon.³

(9) In claimant's appeal of the separate work separation matter involving Lithia Chrysler Jeep Dodge, OAH mailed to claimant, at their former address in Medford, a notice of hearing scheduling a hearing for April 8, 2025. On April 8, 2025, a hearing occurred at which claimant failed to appear. On April 9, 2025, ALJ Honea issued an order dismissing claimant's request for hearing due to their failure to appear. On April 28, 2025, claimant filed a request to reopen the April 8, 2025 hearing. On May 27, 2025, another hearing was held, and on June 3, 2025, ALJ Honea issued another order granting claimant's request to reopen, allowing the late request for hearing, and affirming the administrative decision regarding in the separate work separation matter.⁴

(10) On June 2, 2025, claimant filed a late application for review of Order No. 24-UI-270187. The application for review included a written statement expressing that claimant was requesting to reopen

³ EAB has taken notice of this fact, which is contained in Employment Department records OAR 471-041-0090(1). 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.

⁴ EAB has taken notice of the facts contained in this paragraph, which are contained in Employment Department records. OAR 471-041-0090(1) 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 facts will remain in the record.

the October 18, 2024 hearing, and so was treated as a late request to reopen pursuant to OAR 471-041-0060(4) and (5) and OAR 471-040-0040(6).

CONCLUSIONS AND REASONS: Claimant's late request to reopen is denied. Claimant's late application for review of Order No. 24-UI-270187 is dismissed.

Order No. 25-UI-294999 – Late Request to Reopen. On June 2, 2025, claimant filed a late application for review of Order No. 24-UI-270187. The application for review included a written statement expressing that claimant was requesting to reopen the October 18, 2024 hearing, and so was treated as a late request to reopen pursuant to OAR 471-041-0060(4) and (5) and OAR 471-040-0040(6). ALJ Kangas considered claimant's request, and on June 16, 2025 issued Order No. 25-UI-294999, denying claimant's late request to reopen the October 18, 2024 hearing and leaving Order No. 24-UI-270187 undisturbed. This matter comes before EAB based upon claimant's July 6, 2025 application for review of Order No. 25-UI-294999.

ORS 657.270(5) states that any party who failed to appear at a hearing may request to reopen the hearing, and the request will be allowed if it was filed within 20 days of the date the hearing decision was issued and shows good cause for failing to appear. The period within which a party may request reopening may be extended if the party has good cause for failing to request reopening within the time allowed, and acts within a reasonable time. OAR 471-040-0041(1). "Good cause" exists when an action, delay, or failure to act arises from an excusable mistake or from factors beyond an applicant's reasonable control. OAR 471-040-0041(2). "A reasonable time," is seven days after the circumstances that prevented a timely filing ended. OAR 471-040-0041(3). The party requesting reopening must state the reason(s) for filing a late request to reopen in a written statement, which OAH shall consider in determining whether good cause exists for the late filing, and whether the party acted within a reasonable time. OAR 471-040-0041(4).

The deadline for claimant to file a request to reopen the October 18, 2024 hearing was November 12, 2024. Because claimant did not file their request to reopen until June 2, 2025, the request to reopen was late.

Claimant did not establish good cause for failing to file their request to reopen by November 12, 2024 or for failing to appear at the October 18, 2024 hearing. OAH mailed notice of the October 18, 2024 hearing to claimant at their address in Medford. The hearing notice stated on its caption and Certificate of Mailing that the matter involved Leslie's Poolmart, Inc. Exhibit 3 at 1, 3. Likewise, Order No. 24-UI-270187 was mailed to claimant's address in Medford, stated that it was reversing decision # L0004015934 and disqualifying claimant from benefits, and included a notice indicating that to be timely, a request to reopen was required to be filed within 20 days of when the order from the hearing claimant missed was mailed. Order No. 24-UI-270187 at 3. Claimant is presumed to have received these documents, as 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."). Claimant did not assert or show that they did not receive the hearing notice or Order No. 24-UI-270187.

In claimant's request to reopen, claimant stated that they experienced "confusion and mix up in the[ir] 2 different UI cases." Exhibit 5 at 1. It is correct that claimant had a separate appeal of a work separation from a different employer, Lithia Chrysler Jeep Dodge. The record shows that claimant was responsive in that matter, in that they filed a late request for hearing on September 17, 2024, and, following receipt of an OAH order mailed to their address in Medford, filed an appellant questionnaire response on October 15, 2024. Claimant's appeal of the matter involving Lithia Chrysler Jeep Dodge differed from this case in that the employer initiated the appeal of this case. Nevertheless, in this case, the hearing notice stated on its caption and Certificate of Mailing that the matter involved claimant and Leslie's Poolmart, Inc. Exhibit 3 at 1, 3. The same is true of Order No. 24-UI-270187. *See* Order No. 24-UI-270187 at 1. It was within claimant's reasonable control to carefully read the hearing notice and Order No. 24-UI-270187, and recognize that they pertained to claimant's work separation from Leslie's Poolmart, Inc. Claimant did not show that their mixing up of the two appeals was a circumstance beyond their reasonable control.

Claimant also stated in their reopen request that they have "recently moved from the Southern Oregon area[.]" Exhibit 5 at 1. However, the fact that claimant moved does not establish good cause for failing to file their request to reopen by November 12, 2024 or failing to appear at the October 18, 2024 hearing. The record shows that claimant moved from Medford to Depoe Bay on February 28, 2025. Order No. 24-UI-270187 and the notice that scheduled the October 18, 2024 hearing were both mailed to claimant at their Medford address, months prior to claimant's move. As mentioned above, claimant did not assert or show that they did not receive the hearing notice or Order No. 24-UI-270187, and the documents are presumed to have been received in the regular course of the mail.

Additionally, claimant stated in their reopen request that a particular OAH representative "has recently been helping me learn how to request to reopen this case." Exhibit 5 at 1. To the extent this was meant to suggest that claimant was unable to file their reopen request until June 2, 2025 because they lacked the assistance of the OAH representative prior to that date, claimant did not establish good cause for failing to file their request to reopen by November 12, 2024. Order No. 24-UI-270187, which claimant is presumed to have received, contained a notice that explained all the required aspects of a valid request to reopen. It was within claimant's reasonable control to have read the notice and, if desired, file a reopen request by the November 12, 2024 deadline.

Finally, claimant's confusion with the separate matter involving Lithia Chrysler Jeep Dodge and claimant's failure to carefully read the notice scheduling the October 18, 2024 hearing and Order No. 24-UI-270187 were likely the result of mistakes on claimant's part. However, those mistakes were not "excusable" within the meaning of the administrative rules because they did not, for example, raise a due process issue, and were not the result of inadequate notice, reasonable reliance on another, or the inability to follow directions despite substantial efforts to comply.

For these reasons, claimant failed to establish good cause for filing their reopen request late or failing to appear at the October 18, 2024 hearing. Claimant's request to reopen is therefore denied.

Order No. 24-UI-270187 – Late Application for Review (Returned to EAB). OAR 471-040-0040(6) provides as follows, emphasis added:

(6) The OAH will treat as a request to reopen the hearing any application for review that a party files with the Employment Appeals Board or the Employment Department, where the filing party failed to appear at the hearing that led to the decision on appeal, unless the applicant specifically states in the application that the applicant does not wish to have the case reopened. *In the event that the OAH subsequently denies the request to reopen the hearing, it shall return the case to the Employment Appeals Board, which will then proceed to review the merits of the substantive decision. The original application for review shall serve as the basis for the Employment Appeals Board's review of the merits of that decision.*

By operation of OAR 471-040-0040(6), OAH returned claimant's case to EAB. EAB conducts its review of Order No. 24-UI-270187 based upon claimant's original June 2, 2025 late application for review.

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. 24-UI-270187 was due by November 12, 2024. Because claimant did not file their application for review until June 2, 2025, the application for review was late.

Claimant provided a written statement with their late application for review in the form of the narrative that made up the majority of their reopen request. *See* Exhibit 5 at 1. Claimant's written statement did not describe circumstances preventing claimant from filing the application for review on time. Order No. 24-UI-270187 was mailed to claimant's address in Medford, claimant is presumed to have received it in the regular course of the mail, and on the third page of the order and its Certificate of Mailing, Order No. 24-UI-270187 referenced the November 12, 2024 deadline to appeal. Claimant did not describe factors or circumstances beyond their reasonable control that prevented them from filing the application for review on time. Accordingly, claimant did not show good cause for the late application for review, and claimant's late application for review is dismissed.

DECISION: Order No. 25-UI-294999 is affirmed. The application for review of Order No. 24-UI-270187, filed on June 2, 2025, is dismissed. Order No. 24-UI-270187 remains undisturbed.

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

DATE of Service: August 11, 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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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.

Employment Appeals Board - 875 Union Street NE | Salem, OR 97311

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Email: appealsboard@employ.oregon.gov

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

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El Departamento de Empleo de Oregon es un programa que respeta la igualdad de oportunidades. Disponemos de servicios o ayudas auxiliares, formatos alternos y asistencia de idiomas para personas con discapacidades o conocimiento limitado del inglés, a pedido y sin costo.