

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0471-R

EAB Decision 2025-EAB-0471 Reconsidered
Adhered to on Reconsideration

PROCEDURAL HISTORY: On July 7, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged by the employer, but not for misconduct, and was not disqualified from receiving benefits based on the discharge (decision # L0011658393). Claimant filed a timely request for hearing. ALJ Kangas considered the request, and on July 10, 2025 issued Order No. 25-UI-297146, dismissing the request because decision # L0011658393 was fully favorable to claimant and presented no justiciable controversy. On July 15, 2025, claimant filed an application for review with the Employment Appeals Board (EAB). On August 11, 2025, EAB issued EAB Decision 2025-EAB-0471, dismissing claimant's application for review as presenting no justiciable controversy, and leaving Order No. 25-UI-297146 undisturbed. On its own motion, EAB has reconsidered EAB Decision 2025-EAB-0471.¹ This decision is made under EAB's authority under ORS 657.290(3).

FINDINGS OF FACT: (1) On July 7, 2025, the Department issued decision # L0011658393, concluding that claimant was discharged, but not for misconduct, and was not disqualified from receiving benefits based on the discharge.

(2) On July 8, 2025, the Department issued decision # L0011658919, concluding that claimant was discharged by this employer for misconduct and was disqualified from receiving benefits from May 11, 2025 through May 9, 2026. This decision may have been visible to claimant in Frances Online on July 7, 2025, the day before it was mailed to the parties and considered "issued" under applicable statutes and rules.²

¹ On August 18, 2025, the employer sent an email to EAB regarding EAB Decision 2025-EAB-0471 that did not meet the requirements of OAR 471-041-0145(2) (May 13, 2019) to be considered a request for reconsideration because it did not state that a copy had been provided to claimant.

² EAB has taken notice of these facts, which are 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 facts will remain in the record.

(3) On August 13, 2025, the Department issued decision # L0012316719, cancelling decision # L0011658919 as having been issued in error, leaving decision # L0011658393 undisturbed.³

(4) Claimant filed a request for hearing on July 7, 2025, disputing that he should be disqualified from receiving benefits based on the discharge. The request for hearing was applied to decision # L0011658393, which allowed claimant benefits based on the discharge, as it was the only administrative decision regarding the discharge that had officially been issued as of that date. Order No. 25-UI-297146 dismissed the request for hearing as failing to present a justiciable controversy, and EAB dismissed claimant's application for review of that order in EAB Decision 2025-EAB-0471 because it similarly failed to present a justiciable controversy.

(5) Claimant claimed benefits for the weeks of May 11 through July 12, 2025 (weeks 20-25 through 28-25). Claimant was paid benefits or received waiting week credit for each week, and as of the date of this decision, has not been disqualified from receiving benefits.⁴

CONCLUSIONS AND REASONS: EAB Decision 2025-EAB-0471 is reconsidered on EAB's motion. That decision is adhered to on reconsideration.

Reconsideration. ORS 657.290(3) permits the Employment Appeals Board, upon its own motion, to reconsider any past decision of the Employment Appeals Board, including "the making of a new decision to the extent necessary and appropriate for the correction of previous error of fact or law." "Any party may request reconsideration to correct an error of material fact or law, or to explain any unexplained inconsistency with Employment Department rule, or officially stated Employment Department position, or prior Employment Department practice." OAR 471-041-0145(1). The request will be dismissed unless it says that a copy of the request was given to the other parties, and unless it is filed within 20 days after the decision the party wants to be reconsidered was mailed. OAR 471-041-0145(2).

EAB Decision 2025-EAB-0471 did not discuss decision # L0012316719, which purported to disqualify claimant from receiving benefits based on the discharge, but due to its subsequent cancellation ultimately did not affect claimant's receipt of benefits. That claimant filed his request for hearing on July 7, 2025, likely after viewing decision # L0012316719 online but before it was mailed and officially issued on July 8, 2025, led the Department and the Office of Administrative Hearings (OAH) to apply the request for hearing to decision # L0011658393, which allowed claimant benefits, and which claimant presumably did not intend to appeal. The parties' efforts thereafter to seek further appellate

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⁴ EAB has taken notice of these facts, 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.

review regarding dismissal of the request for hearing suggest that a more detailed explanation of this procedural history is warranted, and EAB has therefore reconsidered EAB Decision 2025-EAB-0471 on its own motion.

Existence of a Justiciable Controversy. Claimant filed an application for review with EAB of Order No. 25-UI-297146, which dismissed his request for hearing on decision # L0011658393 as failing to present a justiciable controversy, and left that administrative decision undisturbed. As decision # L0011658393 did not disqualify claimant from receiving benefits based on the discharge, the effect of Order No. 25-UI-297146 was to allow claimant benefits, and was fully favorable to him.

Oregon courts follow the principle that a review on appeal may only be provided for justiciable controversies. *See, e.g., Gortmaker v. Seaton*, 252 Or. 440, 442, 450 P.2d 547 (1969). A justiciable controversy exists when the interests of the parties to the action conflict with each other, and the appeal will have some practical effect on the rights of the parties to the controversy. *Barcik v. Kubiacyk*, 321 Or 174, 895 P2d 765 (1995). To show a practical effect on their rights, an appellant must seek “substantive relief” through their appeal. *Krisor v. Henry*, 256 Or. App. 56, 300 P.3d 199 (Or. Ct. App. 2013).

Any error assigned by the parties to Order No. 25-UI-297146 involved confusion over the effect of the cancelled administrative decision purporting to disqualify claimant from receiving benefits (decision # L0012316719). As discussed above, neither Order No. 25-UI-297146 nor the administrative decision it reviewed (decision # L0011658393) denied claimant benefits. At present, claimant has not been disqualified from receiving benefits based on the discharge by this employer, or for any other reason. As such, EAB’s review of Order No. 25-UI-297146 would not entitle claimant to further relief. Because EAB’s review of this matter could not provide substantive relief to the appellant (claimant), such review would have no practical effect on the appellant’s rights. Accordingly, there is no justiciable controversy before EAB based upon claimant’s July 15, 2025 application for review.⁵ Because the case before EAB presents no justiciable controversy, the application for review of Order No. 25-UI-297146 was properly dismissed.

DECISION: EAB Decision 2025-EAB-0471 is reconsidered on EAB’s motion. EAB Decision 2025-EAB-0471 is adhered to on reconsideration.

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

DATE of Service: September 19, 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

⁵ It should be noted, however, that decision # L0011658393, which remains in effect, is not fully favorable to *the employer*. Therefore, if the employer disagrees with the conclusions of that administrative decision that claimant was discharged, but not for misconduct, and is not subject to disqualification from benefits, the employer may file a late request for hearing by following the instructions in the administrative decision.

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 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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